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2000

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 24, Issue 9
February 25, 2000

Pages 2,882 - 3,463

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ILLINOIS REGISTER

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EDITOR'S NOTE: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indices are as follows:

Issue 16 - April 14, 2000: Data Through March 31, 2000

Issue 29 - July 14, 2000: Data Through June 30, 2000

Issue 42 - October 13, 2000: Data Through September 30, 2000

Issue 3 - January 19, 2001: Data Through December 31, 2000 (Annual)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED RULES

1) Heading of the Part: International Tourism Program2) Code Citation: 14 Ill. Adm. Code 5553) Section Numbers:

555.10 New Section
 555.20 New Section
 555.30 New Section
 555.40 New Section
 555.50 New Section
 555.60 New Section
 555.70 New Section
 555.80 New Section
 555.90 New Section
 555.100 New Section

4) Statutory Authority: Implementing Section 46.6a of the Civil Administrative Code of Illinois [20 ILCS 605/46.6a] and authorized by Section 46.20 of the Civil Administrative Code of Illinois [20 ILCS 605/46.20].5) A. Complete Description of the Subjects and Issues Involved: This rulemaking establishes a grant program for new international initiatives created as a result of PA91-604/HB 2163.6) Will these rules replace emergency rules currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed rules contain incorporations by reference? No9) Are there any rules pending on this part? No10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Persons wishing to comment may do so in writing within 45 days to:

Ms. Rava Bodard
 Administrative Code Rules Manager
 Department of Commerce and Community Affairs
 620 East Adams
 Springfield IL 62701
 Telephone number: (217) 785-6285

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED RULES

TDD number: (217) 785-6055

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses and small municipalities affected: Certified local tourism and convention bureaus are affected through additional funds and resources for international marketing.

B) Reporting, bookkeeping or other procedures required for compliance: Grant recipients submit reports with expenditures of grant and required match.

C) Types of profession skills necessary for compliance: Applicants would already possess the necessary skills for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: DCCA did not file a regulatory agenda on this rulemaking.

The full text of the Proposed Rules is identical to the text of the Emergency Rules appearing in this issue of the Illinois Register on page **2883**

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Standards of Service for Local Exchange Telecommunications Carriers
- 2) Code Citation: 83 Ill. Adm. Code 730
- 3) Section Numbers: Proposed Action:
 730.100 Amendment
 730.105 New Section
 730.110 Amendment
 730.300 Amendment
 730.310 Amendment
 730.315 Repeal
 730.335 Amendment
 730.405 Amendment
 730.430 Amendment
 730.445 Amendment
 730.505 Amendment
 730.510 Amendment
 730.515 Amendment
 730.520 Amendment
 730.525 Amendment
 730.530 Repeal
 730.535 Amendment
 730.540 Amendment
 730.605 Repeal
 730.705 Amendment
 730.725 Repeal

- 4) Statutory Authority: Implementing Section 8-301 and authorized by Section 10-101 of the Public Utilities Act [220 ICS 5/8-301 and 10-101].

- 5) A Complete Description of the Subjects and Issues Involved: These proposed amendments are designed to treat the changes in the law and in the provision of local exchange service since this part was last amended in 1991. The proposed amendments make applicable to competitive local exchange telecommunications carriers the requirements of this Part. The proposed amendments also include a waiver provision. The repeal of obsolete provisions is being proposed. The proposed changes include construction, grades of service, network interface, call records, testing, and standards of quality of service.

- 6) Will these proposed Amendments replace emergency Amendments currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed rules neither create nor expand any state mandate on units of local government, school districts, or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed with:

Donna M. Caton
 Chief Clerk
 Illinois Commerce Commission
 527 East Capitol Avenue
 P.O. Box 19280
 Springfield, IL 62794-9280

Comments should be filed with the Chief Clerk within 45 days after the date of this issue of the *Illinois Register*.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: These proposed amendments will affect any competitive local exchange carriers that are also small businesses as defined in the Illinois Administrative Procedure Act.

B) Reporting, bookkeeping or other procedures required for compliance: Reporting and record keeping.

C) Types of professional skills necessary for compliance: Engineering and managerial skills.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: It was not anticipated that the rulemaking would be submitted for First Notice at this time.

The full text of the Proposed Amendments begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER 1: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 730
STANDARDS OF SERVICE FOR LOCAL EXCHANGE
TELECOMMUNICATIONS CARRIERS

SUBPART A: GENERAL

Section
730.100 Application of Part
730.105 Definitions
730.110 Waiver

SUBPART B: RECORDS AND REPORTS

Section
730.200 Preservation of Records

SUBPART C: ENGINEERING

Section
730.300 Construction
730.305 Maintenance of Plant and Equipment
730.310 Grade of Service
730.315 Interoffice Trunks (Repealed)
730.320 Network Service
730.325 Emergency Operation
730.330 Construction Work Near Utility Facilities
730.335 Network Interface

SUBPART D: CALL DATA, INSPECTIONS, AND TESTS

Section
730.400 Provisions for Testing
730.405 Call Data Records
730.410 Call Data Reading Interval
730.415 Call Data Recording Equipment and Test Facilities
730.420 Call Data Recording Equipment Requirements
730.425 Initial Test
730.430 As-Found Tests
730.435 Routine Tests
730.440 Referee Tests
730.445 Referee Tests
730.450 Test Records

SUBPART E: STANDARDS OF QUALITY OF SERVICE

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Section
730.500 Adequacy of Service
730.505 Operator Handled Calls
730.510 Answering Time
730.515 Central Office Administrative Requirements
730.520 Interoffice Trunks
730.525 Transmission Requirements
730.530 Coin Telephone Service (Repealed)
730.535 Interruptions of Service
730.540 Installation Requests

SUBPART F: SAFETY

Section
730.600 Safety Program
730.605 Accident Reports (Repealed)

SUBPART G: BOUNDARIES

Section
730.700 Map Requirements
730.705 Map Specifications
730.710 Application for Certificate
730.715 Service Outside Exchange Boundaries
730.720 Map Maintenance
730.725 District Boundaries (Repealed)

AUTHORITY: Implementing Section 8-301 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-301 and 10-101].

SOURCE: Filed November 6, 1970; amended at 7 Ill. Reg. 2147, effective February 4, 1983; codified at 8 Ill. Reg. 12191; Part Repealed and new Part adopted at 15 Ill. Reg. 16060, effective November 1, 1991; amended at 24 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 730.100 Application of Part

This Part shall apply to all local exchange carriers offering or providing either competitive or noncompetitive telecommunications services as defined in Sections Section 13-209 and 13-210 of the Universal Telephone Service Protection Law of 1985 ("Law"), (111-Rev-Stat-1989-ch-111-2/3-par-220 ILCS 5/13-209, 13-210). This Part shall apply to the relationship between a serving local exchange carrier and its end user customer only. This Part shall not be applicable to the relationship between a serving local exchange carrier subject to this Part and any local exchange carrier that provides facilities or services to the serving local exchange carrier for provision to its end user

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customers. ~~A local exchange carrier not responsible for the provision and maintenance of a specific service as covered by this party shall not be subject to the rules that apply to such service.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.105 Definitions

As used in this Part, the following terms shall have these definitions:

"Abandoned call" means a call that has been offered onto a communications network or telephone system that was terminated by the person originating the call before it was answered by the entity being called.

"Access line" means the connecting facility between a customer's premises network interface device and the local exchange carrier's facility that provides access to the switching network for local exchange and interexchange telecommunications service. This includes the network interface or equivalent, the outside plant facilities, the office frame and frame wiring and the office line termination.

"Analog" means a continuous electrical signal that carries information by means of variations in its amplitude or frequency. The electrical signal being transmitted varies in direct relation to the signal generated by the source.

"Answer time" means a measurement from the point a call is placed in the answering queue.

"Application" means a verbal or written request for a telecommunications service.

"Assistance calls" means calls in which the operator provides assistance or instructions to the customer. Examples: rate queries, credit requests, trouble reports, dial assistance, and dialing instructions.

"Business office" means those offices of the company where calls are answered and made. A business office typically employs company representatives to assist customers for order entry and lookup on customers' orders and account records through the use of a computerized system.

"Busy hour" means the two consecutive half-hours each day during which the greatest volume of traffic is handled in the central office.

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"Busy season" means the two consecutive weeks during which the greatest volume of traffic is handled in the central office.

"Busy tone" means an audible signal indicating a call cannot be completed because the called access line is busy. The tone is applied 60 times per minute.

"Call data" means the recorded information necessary to measure and bill each call.

"Calls" means customers' messages attempted.

"Central office" means the site where switching equipment is located. A local central office, also called an end office, is the switching office where individual subscribers' access lines appear. It houses the equipment that receives calls transmitted on the local loop and routes the call over the switched network either directly to the person called, if the call is placed to a location served by the same local central office, or to another central office, if the call is placed to a customer served by a different central office. Each central office serves local loops in an exclusive geographic area.

"Certificate of Service Authority" means the authorization by the Illinois Commerce Commission ("Commission") granting a local exchange carrier the right to provide telecommunications services within a specified geographical area.

"Channel" means a single path between two or more points provided for transport of user information and/or signaling for a communications service.

"Connecting company" means a corporation, association, partnership or individual (other than a company affiliated interest) that owns or operates central offices or similar switching facilities and interchanges traffic directly or indirectly with the local exchange carriers.

"Customer" means any person, building owner, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., provided with local exchange carrier telecommunications services as defined in Section 13-204 of the Law (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 13-204). "Customer" may also be referred to as "end user."

"Customer trouble report" means any verbal or written report relating to difficulty or dissatisfaction with the operation of regulated telecommunications services. One report shall be counted for a verbal or written report received. When several items are reported by one

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customer at the same time, and the group of troubles so reported is clearly related to a common cause, they are counted as one report.

"dBmc" means a measure of the interfering effect of noise.

"Decibel" or "dB" means a standard unit used for expressing a transmission signal gain or loss.

"Dial tone" means an audible tone sent from an automatic switching system to a customer to indicate the equipment is ready to receive dial signals.

"Dial tone first" means coin telephone service that allows a customer to obtain a dial tone before money is deposited into the coin telephone.

"Digital" means a signal which carries information by discrete changes in its parameters. For digital transmission of analog information, the incoming voice, data, or video signals are sampled periodically and digitally coded for transport through the network.

"Direct Distance Dialing" or "DDD" means the automatic establishment of toll calls in response to signals from the dialing device of the originating customer.

"Distributing system" means that part of the outside cable plant connecting the central office to the customer network interface at the customer's premises.

"District" means an area of an exchange which is the basis for the determination of usage rates within Market Service Areas (MSAs) (see Section 13-908 of the law) and of foreign district service and foreign central office service mileage measurement in MSAs.

"End user" means any person, building owner, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., provided with local exchange carrier telecommunications services for consumption, not for resale, as defined in Section 13-204 of the law [220 ILCS 5/13-204]. "End user" may also be referred to as "customer".

"Exchange area" means a unit established by a local exchange carrier and approved by the Commission for the administration of telecommunications service in a specified geographical area. It may consist of one or more central offices together with associated plant used in furnishing telecommunications services in that area. Exchange areas are identified on exchange boundary maps on file with the Commission.

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"Foreign exchange service" means a classification of exchange services whereby customers may be provided a telecommunications service from a local exchange other than the one from which they would normally be served.

"Information call" means a call in which a customer will be connected to an information bureau by dialing the proper service code or number and will be given the directory number of the customer whom he desires to call, provided that the customer's number to be called is or will be published or listed in the information records.

"Intercept service" means a service arrangement provided by the local exchange carrier whereby calls placed to a disconnected or discontinued telephone number are intercepted and the calling party given such information as the called telephone number has been disconnected, discontinued, or changed to another number, or that calls are being received by another telecommunications line.

"Interoffice trunk" means a communication path between two central offices.

"Line" means the conductor or conductors, supporting circuit equipment, and structures extending between customer network interfaces and central offices, or between central offices, whether they be in the same or different communities.

"Local exchange carrier" means a telecommunications carrier certificated by the Commission to provide intra-exchange and/or inter-exchange service within the same MSA.

"Local exchange service" means the same as "local exchange telecommunications service" as defined in Section 13-204 of the law.

"Local exchange service area" means the area where telecommunications service is furnished to customers under a specific schedule of rates and without toll charges. A local exchange service area may include one or more exchange areas or portions of exchange areas.

"Local message" means a completed call between customers served by the same central office or between customers served by two different central offices as defined by and in accordance with tariffs.

"Local loop" means a channel between a customer's network interface and its serving central office. The most common form of loop, a pair of wires, is also called a line.

"Local usage charge" means the charge that applies to a call defined as a "local message".

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"Map" means a drawing showing a geographical area in which a local exchange carrier furnishes telecommunications services.

"Message" means a completed customer call.

"Network" means the aggregate of transmission systems and switching systems. It is an arrangement of channels, such as loops, trunks, and associated switching facilities.

"Network interface" means the point of termination on the customer premises at which the local exchange carrier's responsibility for the provision and maintenance of network channel or line service ends. The network interface is part of the network and the order of appearance of central office lines on it is determined solely by the local exchange carrier.

"Network service" means a telecommunications service that links two or more discrete channels for the purpose of creating a point-to-point connection.

"Noise to Ground (Ng)" means the noise measured between ground and the tip and ring conductors. The customer does not hear the noise to ground, but the amount of noise to ground affects the amount of noise metallic which a customer hears.

"Noise Metallic (Nm)" means the noise measured across the tip and ring of a circuit and is the noise that the customer hears.

"Operator number identification" means a service provided by an intercept operator on calls that originate from a telecommunications office that is not equipped for automatic identification of the called number.

"Outside plant" means the telecommunications equipment and facilities installed on, along, over, or under streets, alleys, highways, or on private rights-of-way between the central office and customer locations or between central offices.

"Party line service" is a service offering where two or more unaffiliated end user customers share the same line and telephone number.

"Premises" means the space occupied in a single local exchange area by a customer in a building or in adjoining buildings not separated by a public thoroughfare or in a public office building where the customer's office space is all contiguous.

"Public telephone service" means one-party access line service

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equipped with a coin collecting and/or calling-card only telephone instrument installed for the use of the general public in locations where the general public has access to these telephones.

"Repair office" means an office to handle customers' reported telephone facility problems. Customers may call to request trouble verification test, initiate trouble reports and obtain information on the status of open trouble reports.

"Reporting entity" means a unit established by the local exchange carrier for the purpose of administering the customer service operations established by this Part.

"Telecommunications service" means all regulated communication service provided by local exchange carriers.

"Toll call" means a completed message between customers in different exchanges for which message toll rates are applicable.

"Traffic" means call volume based on number and duration of messages.

"Transmission" means the process of sending information from one point to another.

"Trunk" means a transmission path between switching units, switching centers, and toll centers.

"Working line" means an active access line or channel.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.110 Waiver

The Commission, on application of a company, customer, applicant, or user or on its own motion, may grant a temporary or permanent waiver from this Part in individual cases where the Commission finds that:

- a) The provision from which the waiver is granted is not statutorily mandated;
- b) No party will be injured by the granting of the waiver; and
- c) The rule from which the waiver is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

(Source: Added at 24 Ill. Reg. _____, effective _____)

SUBPART C: ENGINEERING

ILLINOIS COMMERCE COMMISSION

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Section 730.300 Construction.

- a) ~~Per projects in which construction starts after January 17, 1997, each local exchange carrier shall place a minimum of 80% of its constructed cable facilities (measured in sheath-miles) underground.~~
- a) Each local exchange carrier shall place a minimum of 80% of all newly constructed outside cable plant facilities (measured in sheath-miles) underground.
- b) The telecommunications outside plant shall be designed, constructed, maintained, and operated in accordance with the provisions of 83 Ill. Adm. Code 305 and 83 Ill. Adm. Code 285.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.310 Grade of Service

No local exchange carrier shall offer party line service connect more than one customer per access line.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.315 Interoffice Trunks (Repealed)

~~Interoffice trunks--or--toll--circuits--shall--be--metallic--fiber--optic--or--microwave.~~

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 730.335 Network Interface

- a) The network interface for a residential customer shall be located in or on a structure owned, rented, or leased by the customer, in which the customer resides.
- b) The network interface for business customers shall be located in or on structures owned, rented, or leased by the customer, in which the customer is conducting business. The demarcation point shall be located at the minimum point of penetration to the building, normally within 25 feet. Deviation from this location must be mutually agreeable to the building owner and the telecommunications provider.
- c) Network interfaces shall not be located on fence posts, utility poles, or cable pedestals.
- d) Network interfaces for temporary services or serving trailers, boats, or customer-owned pay telephones shall be located on structures provided by the customer or on a utility pole.

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART D: CALL DATA, INSPECTIONS, AND TESTS

Section 730.405 Call Data Records

Recording devices, when used in connection with telecommunications service to collect call data from which the customer's bills are prepared, shall show:

- a) Called customer's telephone number ~~letter-7-or-10-digits~~;
- c) Date;
- d) Time of day; and
- e) Duration of message.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.430 As-Found Tests

All call data recording devices tested in accordance with this Part for either routine maintenance or a complaint shall be tested in their normal operating location and wiring mode ~~prior-to-removal-or-adjustment.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.445 Referee Tests

Any customer, by written request to the Telecommunications ~~Public-Utilities~~ Division of the Commission, may have a test of any recording device related to its billing, conducted by the local exchange carrier in the presence of a representative of the Commission, provided such request is not made more frequently than once every 6 months.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART E: STANDARDS OF QUALITY OF SERVICE

Section 730.505 Operator Handled Calls

When an operator is notified by a customer that he has reached a wrong number, has been cut off, or has experienced poor transmission, the operator shall arrange for credit, except in cases where fraudulent activity is demonstrable.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Section 730.510 Answering Time

- a) Operator offices shall be staffed so that the average speed of answer shall not exceed ten seven seconds for the following types of calls:
- 1) Toll and assistance; and
 - 2) Information; and
 - 3) ~~Intercept; and~~
 - 4) ~~Operator-number-identification.~~
- b) Whenever the average speed of answer exceeds ten seven seconds on a monthly basis, the company shall take corrective action.
- c) The average speed of answer for calls placed to the business offices and repair offices shall not exceed 60 seconds where a representative or automated system is ready to render assistance and/or accept information to process calls.
- d) Companies shall maintain records of telephone answer time performance at their business offices and repair offices. At a minimum, these records shall contain the following information in monthly increments:
- 1) Total number of calls received;
 - 2) Number of calls answered;
 - 3) Average speed of answer; and
 - 4) Number and percentage of abandoned calls.
- On or before March 1 of each year, each company shall file an annual report on its answer time for its business offices and repair offices with the Chief Clerk of the Commission. This information shall also be made available to the Commission on an as need basis when requested.
- e) Whenever a telephone company fails to meet the monthly objectives contained in this Section, it shall report that fact to the Telecommunications Division, with a statement of the reasons, within 15 days after the end of each month.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.515 Central Office Administrative Requirements

- a) Central office capacity and equipment shall be provided to maintain a dial tone within three seconds on 9% of calls during the busy hour.
- b) Each central office shall be equipped with alarms to indicate failures or improper functions.
- c) ~~All central offices with 400 or more lines shall be provided with intercept equipment or equivalent procedures.~~
- d) ~~Either operator or mechanized intercept service shall be provided for nonworking or changed terminating numbers until the numbers are assigned or reassigned.~~
- e) ~~All remote switching units are to be equipped to continue to perform basic internal switching functions if a base unit connection is interrupted.~~

ILLINOIS COMMERCE COMMISSION

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- e) Whenever a telephone company fails to meet the monthly objectives contained in this Section, it shall report that fact to the Telecommunications Division, with a statement of the reasons, within 15 days after the end of each month.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.520 Interoffice Trunks

- a) Local interoffice and intraoffice trunks shall be engineered so that at least 98% of telephone calls placed shall not encounter an all trunks busy condition. When the completion rate falls below 96% for three consecutive months, corrective action shall be initiated and such action reported to the Commission.
- b) The trunk and related switching components in the inter-toll network shall be engineered and maintained so that 98% of the properly dialed incoming interarea calls ~~BBB-incoming calls~~, during the average busy season, shall receive ringing signal, busy tone, or intercept on the first attempt. When this rate falls below 96% for three consecutive months, corrective action shall be initiated and that action reported to the Commission.
- c) Interoffice toll access trunks shall be engineered for completion of 99% of calls without an all trunks busy condition. Whenever the completion rate falls below 97% for three consecutive months, corrective action shall be initiated and that action reported to the Commission.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.525 Transmission Requirements

Local exchange carriers shall furnish and maintain plant, equipment, and facilities to meet the following minimum transmission standards. The transmission standards set forth in this Section are based upon measurements from the network interface at the customer premises through the local loop to a nominal 48-volt central office and measured at a frequency of 1004 hertz.

- a) Local line analog loops shall have a loop resistance not exceeding the operating design of the associated central office equipment. Longer loops may be used by deployment of loop range extenders.
- b) All analog loops are to be maintained to a minimum of 40,000 ohms insulation resistance.
- c) Transmission loss of analog local loop shall be engineered not to exceed 10 dB when measured in accordance with subsection (a). The local loop transmission loss shall be adjusted to 10 dB or less if it exceeds 10 dB.
- d) Transmission loss in analog interoffice trunks shall be engineered not

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- to exceed 7 dB, if the loss exceeds expected design loss by + or - 3.5 dB, it shall be corrected to within 1 dB of the design loss.
- Transmission loss on analog toll terminating trunks shall be engineered not to exceed 4 dB, if the loss exceeds expected design loss by + or - 3.5 dB, it shall be corrected to within 1 dB of the design loss.
 - Transmission loss on all digital interoffice trunks shall be engineered and maintained not to exceed 6 dB.
 - Loop current shall be maintained at 20 milliamperes or greater.
 - Power influence (Noise to ground) shall not exceed 90 dBmC.
 - Circuit noise (Noise Metallic) shall not exceed 30 dBmC.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.530 Coin Telephone Service (Repealed)

- ~~In each exchange at least one public coin telephone will be available to the public on a 24-hour basis. This coin telephone shall be accessible to the public by being lighted at night, and be provided with a directory.~~
- ~~All coin telephones shall be equipped to operate on a dual-tone first basis.~~
- ~~Each coin telephone shall have a notice attached to it informing the customer of the name of the long distance company, and alternate operator service provider providing service from it.~~

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 730.535 Interruptions of Service

- On a monthly basis, the local exchange carrier shall clear 95% of all out-of-service troubles up to the customer network interface within 24 hours of the time such troubles are reported, except when such service interruptions are caused by emergency situations or natural disasters affecting a large number of customers.
- Required toll-free numbers
 - Each local exchange carrier shall provide to its customers the telephone number to call for repair service. Calls to repair service shall be available without charge. When trouble is apparently located in a connecting company, this trouble report shall be immediately referred to the connecting company.
 - Each local exchange carrier shall provide its business office telephone number to its customers. Calls to the business office shall be available without charge.
- Each local exchange carrier shall inform the Commission either verbally, followed by a written report within 30 days, or via

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- facsimile of any complete central office failure or isolation of an exchange due to toll circuit failure when the failure exceeds two minutes ~~one minute~~. This record shall show the time, duration, extent, and cause of the failure, and shall be retained for a period of one year.
- Whenever it is necessary to interrupt customer service for the purpose of working on the distribution system or central office equipment, the work should be completed with minimal customer impact. Those who will be most seriously affected by such interruption shall be notified in advance. Any adjustments for interrupted service shall be made pursuant to 83 Ill. Adm. Code 735.70(e).
 - Repair service shall be available at all times for reporting service out of order. Arrangements shall be made to receive customer trouble reports 24 hours daily and to clear out of service trouble at all hours for customers who express an emergency need for service as long as clearing such trouble is consistent with the personal safety of local exchange carrier personnel. An emergency shall consist of an immediate threat to life, limb, or property.

- Each local exchange carrier shall maintain a record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date and nature of the report, the action taken to clear trouble or satisfy the complaint, and the date and time of trouble clearance or other disposition. The company shall retain these records for a period of one year from the date of the report.
- The local exchange carrier shall maintain service so that the average rate of all customer network trouble reports is no greater than 6 reports per 100 access lines per month.
- Whenever a telephone company fails to meet the monthly objectives contained in this Section, it shall report that fact to the Telecommunications Division, with a statement of the reasons, within 15 days after the end of each month.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.540 Installation Requests

- The local exchange carrier shall complete 90% of its regular service installations within five working days after the receipt of the application, unless a later date is requested by the applicant.
- Installation intervals beyond five working days may be appropriate in those instances where installation forces are busy restoring services due to interruption caused by emergency situations, where materials cannot be obtained through no fault of the company, and during unusual rush periods caused by weather or by work stoppages.
- On a company basis, 90% 92% of the local exchange carrier's regular service order installation commitments shall be met, excepting

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customer-caused delays or natural disasters. When, for company reasons, the service installation date cannot be made, the applicant will be notified, where possible, of the delay, the reason for delay, and the approximate date when the service installation will take place.

d) Whenever a telephone company fails to meet the monthly objectives contained in this Section, it shall report that fact to the Telecommunications Division, with a statement of the reasons, within 15 days after the end of each month.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART F: SAFETY

Section 730.605 Accident Reports (Repealed)

Accidents shall be reported in accordance with 63 Ill. Adm. Code 220-

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

SUBPART G: BOUNDARIES

Section 730.705 Map Specifications

- a) A local exchange carrier boundary map filed after the effective date of this Part shall be in accordance with a certificate of service authority. Any exchange boundary map revision that changes the boundary of the exchange shall be by petition (see 83 Ill. Adm. Code 200). A new certificate of service authority will be issued for any exchange in which area is to be added or withdrawn.
- b) Each map shall have a scale of one inch to the mile and show the location of highways, railroads, waterways, section lines, and geographical township and range lines. The maps shall contain detail as shown on county maps available from the Illinois Department of Transportation.

- be) Each map shall show the boundary lines of the area the local exchange carrier holds itself out to serve in connection with the exchange. Exchange boundary lines shall be located by appropriate measurement to an identifiable location if that portion of the boundary line is not otherwise located on section lines, waterways, railroads, or roads.
- cd) The name of the local exchange carrier filing the map shall be placed at the left side of the top of the map, and the name of the exchange followed by the words "(Name of carrier) Exchange Area Boundary Map" shall be placed at the right side of the top of the map. The first filing of a map shall be designated by the word "Original" placed just below the words "(Name of carrier) Exchange Area Boundary Map". If

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the map is subsequently refiled, the words "First Revisions" shall be substituted for the word "Original," and on each subsequent refiled the next higher number shall be substituted for the number preceding the word "Revision" on the last map filed. The docket number and the date of the order granting a Certificate of Service Authority shall also appear at the right side near the top of the map.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 730.725 District Boundaries (Repealed)

When it is necessary to revise district boundaries, customers affected by such change shall be given notice in accordance with 63 Ill. Adm. Code 735.100(k) and those objecting to the change may file a complaint with the Commission in accordance with 63 Ill. Adm. Code 735.200. The local exchange carriers, as a result of such complaints, shall provide the Commission with data supporting district boundary changes.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Swimming Pool and Bathing Beach Code2) Code Citation: 77 Ill. Adm. Code 8203) Section Numbers:

820.200 Proposed Action:

820.210 Amendment

820.220 Amendment

820.230 Amendment

820.240 Amendment

820.300 Amendment

820.310 Amendment

820.330 Amendment

820.340 Amendment

820.400 Amendment

4. Statutory Authority: Swimming Pool and Bathing Beach Act [210 ILCS 125]5. A Complete Description of the Subjects and Issues Involved: The proposed amendments address the following issues related to design and personnel requirements for public swimming pools and bathing beaches:

1. Depth markers and "no diving" markers will not be required at the zero depth edge of pools.
2. Language will be added to address starting platforms permitted prior to May 20, 1999.
3. The deck and railing requirements at wave pools will be revised.
4. Double-walled heat exchangers for pool heaters will be required.
5. Deck drainage systems that drain toward the pool will not require a six inch air gap.
6. Language will be added to specify that the combined flow rate through the surge weirs shall not exceed the design circulation flow rate.
7. Erosion type chemical feeders will be required to be installed according to the manufacturer's instructions.
8. Carpet will not be allowed in locker rooms, dressing areas or connecting halls.
9. The requirement for lifeguards will be changed from one for 200 bathers to one for 100 bathers or 2000 square feet of surface area, whichever is fewer.
10. Lifeguards will be allowed to guard more than one pool at a facility

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only if they have a clear unobstructed view of the pools and it will be specified that they can only guard up to three water slide discharges.

11. Revisions will be made to the swimming pool closing criteria including requiring outdoor pools to be closed when lightning is in the area.

12. If a beach operator fails to submit the required water samples, the Department will have the authority to close the beach.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain any Incorporations by Reference? Yes

9) Are there any Other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: The existing rules establish the requirements for the design, construction and operation of swimming pools, bathing beaches and appurtenances. In order to provide improved assurance of the protection from illness and injury for those people that utilize these aquatic facilities, the Department recognized the need for the improved changes.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing to:

Paul Thompson, Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217)762-2043
(E-mail:rules@dph.state.il.us)

within 45 days after this issue of the *Illinois Register*.

These rules may have an impact on small businesses. Any small business may present their comments in writing to Paul Thompson at the above address.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: Municipalities, park districts, schools, colleges, hotels, apartments, condominiums, YMCAs, YWCAs, and similar entities may be affected.

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B) Reporting, Bookkeeping or Other Procedures Required for Compliance: No additional reporting is required.

C) Types of Professional Skills Necessary for Compliance: Competency in design, construction and operation of swimming pool facilities or bathing beaches.

13) Regulatory Agenda in which this rulemaking was summarized: State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas: This rulemaking replaces Section 820.300 which was adopted as an emergency rule May 20, 1999, but has since expired.

The full text of the Proposed Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER n: RECREATIONAL FACILITIES

PART 820
ILLINOIS

SWIMMING POOL AND BATHING BEACH CODE

SUBPART A: GENERAL

Section	Definitions
820.10	Incorporated Materials
820.20	

SUBPART B: SWIMMING POOLS AND BATHING BEACHES

Section	Permits
820.100	Water Supplies
820.110	Wastewater Disposal
820.120	Food Service Sanitation
820.130	Exemptions
820.140	Variances
820.150	

SUBPART C: SWIMMING POOL DESIGN REQUIREMENTS

Section	General Design Requirements
820.200	Swimming Pool Water Treatment System
820.210	Swimming Pool Bather Preparation Facilities
820.220	Wading Pools
820.230	Spray Pools
820.240	Slides
820.250	New Equipment, Construction and Materials (Repealed)
820.260	Lazy Rivers
820.270	

SUBPART D: OPERATIONAL REQUIREMENTS

Section	Applicability of Operation Requirements
820.290	Personnel
820.300	Safety Equipment
820.310	Notification
820.315	Water Quality
820.320	Swimming Pool Closing
820.330	Operation and Maintenance
820.340	Operation Reports and Routine Sampling
820.350	Patron Regulations
820.360	

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820.370 Swimming Suits and Towels Furnished by Management
820.380 Wading Pools, Spray Pools and Therapy Pools
820.390 Refuse Disposal

SUBPART E: BATHING BEACH DESIGN AND OPERATION

Section
820.400 Minimum Sanitary Requirements for Bathing Beaches
820.500 Minimum Sanitary Requirements for Bathing Beaches (Renumbered)

APPENDIX A Illustrations

- ILLUSTRATION A Slope of Pool Floor
ILLUSTRATION B Pool Walls
ILLUSTRATION C General Pool Diving Area Dimensions
ILLUSTRATION D Pools with Diving Facilities in Excess of Three Meters in Height
ILLUSTRATION E Slide Dimensions (Repealed)
ILLUSTRATION F Slide Position (Repealed)
ILLUSTRATION G Flow Meter Installation
ILLUSTRATION H Skimmer Construction
ILLUSTRATION I Installation of a Pressure Sand Filter System
ILLUSTRATION J Installation of a Pressure Diatomaceous Earth Filter System
ILLUSTRATION K Installation of a Vacuum Filter System
ILLUSTRATION L Chlorine Injection into Return Line to Pool Using Pump Discharge Pressure
ILLUSTRATION M Chlorine Injection into Return Line to Pool Using External Water Source Pressure (Repealed)
ILLUSTRATION N Chlorine Injection into Return Line to Pool Using Booster Pump

APPENDIX B Tables

- TABLE A Dimensions of Swimming Pools with Diving Facilities in Excess of Three Meters in Height
TABLE B First Aid Kit Contents
TABLE C Flows Carried by Inlets
TABLE D Sizing Swimming Pool Chlorinators
TABLE E Shower, Lavatory and Toilet Fixtures Required Per Bather Load

AUTHORITY: Implementing and authorized by the Swimming Pool and Bathing Beach Act (210 ILCS 125).

SOURCE: Adopted October 22, 1974; amended and effective February 9, 1976; amended at 4 Ill. Reg. 46, P. 1283, effective November 5, 1980; amended at 5 Ill. Reg. 9593, effective September 16, 1981; rules repealed and new rules adopted at 5 Ill. Reg. 13623, effective December 2, 1981; amended and codified at 8 Ill. Reg. 12366, effective July 5, 1984; amended at 11 Ill. Reg. 12308, effective July 15, 1987; amended at 14 Ill. Reg. 786, effective January 1, 1990; amended at 20 Ill. Reg. 6971, effective May 25, 1996; emergency amendment at 21 Ill. Reg. 7536, effective May 28, 1997, for a maximum of 150 days;

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amended at 22 Ill. Reg. 9357, effective May 15, 1998; amended at 23 Ill. Reg. 6079, effective May 20, 1999; emergency amendment at 23 Ill. Reg. 6551, effective May 20, 1999, for a maximum of 150 days; emergency expired November 17, 1999; amended at 24 Ill. Reg. _____, effective _____.

SUBPART C: SWIMMING POOL DESIGN REQUIREMENTS

Section 820.200 General Design Requirements

Swimming pools and appurtenances, including other pools associated with or provided as appurtenances to swimming pools, shall comply with this Subpart.

- a) Enclosures
- 1) The swimming pool area shall be completely enclosed by a protective wall, fence or other barrier, at least four feet high, measured on the inside and outside, and not providing ready footing for climbing. The height of an opening under the bottom of the barrier shall not exceed four inches. The openings in any barrier shall not exceed four inches in width and height.
 - 2) Each entrance into the pool enclosure shall be equipped with a door or gate that is self-closing and self-latching. This requirement is not necessary when people enter the pool area through the bathhouse and lifeguards are provided in the pool area. Doors and gates at all entrances to the pool enclosure must be equipped with hardware that permits secure locking of the entrance.
 - 3) A balcony shall not overhang or extend within 10 feet horizontally of any portion of the water surface of a swimming pool.
 - 4) Sand areas shall not be allowed inside of the pool enclosure unless a barrier is provided to control access to the pool. If access is allowed to such areas, an arrangement must be provided that requires bathers passing from the sand area to the pool area to pass through a shower facility with heated or tempered water for removal of sand.
 - b) Bather Load. The Department will compute a bather load for each swimming pool area. A bather load shall be specified with the issuance of a construction permit for a new swimming pool. In the case of multiple swimming pools contained within a common enclosure, the Department may compute a combined bather load for the pool enclosure. The criteria to be used for computing the bather load are as follows:
 - 1) Shallow Area.--Fifteen square feet of water surface shall be required for each bather.
 - 2) Deep Area. 25 square feet of water surface shall be required for each bather, with 300 square feet deducted for each diving board or platform.
 - 3) The bather load for wading pools shall be computed at 15 square

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feet of pool water surface for each bather.

- 4) A designated plunge area or landing area for a slide, as specified in Section 820.250 of this Part, shall not be considered in computing a bather load.

- 5) One bather shall be allowed for each 50 square feet of pool deck area in excess of the minimum specified in Section 820.200(j)(1).

- c) Structure. A licensed architect or structural engineer shall certify that the pool is designed to withstand all anticipated hydraulic structural loadings for both full and empty conditions. All appurtenances to the pool, such as diving boards and slides, shall be designed to carry the anticipated load.

- d) Material. Pools shall be constructed of materials which provide a rigid watertight shell with a smooth, impervious, light colored finish that is non-toxic and easily cleaned. The floor of shallow areas shall have a slip-resistant finish. Pool vinyl liners may only be installed over a base of concrete, steel or other such rigid material.

- e) Obstruction. An obstruction creating a safety hazard shall not extend into or above the pool, or shall not protrude from the floor of the pool.

- f) Slope of Pool Floor. The floor of a pool shall slope downward toward the main drain. The slope in shallow areas shall not exceed one foot vertical in 12 feet horizontal except for a slope directed downward from a transition point, which shall not exceed one foot vertical in three feet horizontal. In portions of the pool with a depth greater than five feet, the front slope of the deep area shall not be steeper than one foot in three feet. The slope requirements are illustrated in Appendix A: illustration A.

- g) Transition Point. Transition points shall be marked with a stripe on the pool floor having a width of at least four inches and a color that contrasts with that of the floor, and with a buoyed safety rope with colored buoys, installed at least one foot on the shallow side of the transition point. In other pools having adjoining shallow and deep areas, a safety rope with colored buoys shall be installed where the water depth reaches five feet.

- h) Pool Walls

1) Pool walls shall meet the following requirements:

- A) Where the pool depth is 42 inches or less, pool walls shall be vertical to the floor. The junction of the wall with the floor shall consist of a cove with a radius not exceeding six inches.

- B) Where the pool depth exceeds 42 inches, pool walls shall meet one of the following criteria:

- i) The wall shall be vertical for a distance of at least five feet below the water level, below which the wall may angle to the floor; or
- ii) The wall shall be vertical for a distance of at least three feet below the water level, below which the wall

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shall form a curve to the floor. The curve shall be tangent to the pool wall and shall have a radius of curvature at least equal to the vertical distance between the center of curvature and the pool floor.

- 2) If pool ledges are provided, they shall have a maximum six inch width, shall be located at least three feet below the water level, shall slope away from the pool wall and shall have a slip-resistant surface with a color that contrasts with the pool walls and floor. The pool wall below the ledge shall be constructed in accordance with the requirements of this Section except that the pool wall may slope inward toward the pool at an angle not exceeding 11 degrees from vertical.

- 3) Underwater seat benches shall be located a maximum of 20 inches below the water level, be visually set apart, have a slip-resistant surface, and be recessed into the pool wall or be installed so that there are no exposed corners or vertical edges in the pool.

- 4) All junctions between pool walls, and between pool walls and the pool floor, shall be coved with a minimum radius of one inch.

- 5) Devices for anchoring safety ropes and racing lane divider ropes shall be recessed into the pool wall.

- 6) An effective handhold shall be provided at or near the water level where the pool depth is 30 inches or greater. The handhold may consist of the rounded lip of a perimeter overflow system or bullnose coping with round, raised handhold not exceeding two and one-half inches in thickness, or other effective handhold. The handhold shall not protrude more than two inches into or over the pool.

- 1) Depth Markers

- 1) The water depth shall be marked at or above the water surface on the wall of the pool and on the edge of the deck next to the pool so as to be readable ~~readable~~ by persons entering or in the pool. Where depth markers cannot be placed on the walls at or above the water level such that at least 50% of the marking is above water level, they shall be placed on the pool wall as high as practicable and also on the fencing or pool enclosure so as to be plainly visible to persons in the pool. Depth markings shall be provided at the shallow and deep ends of the pool, the transition point, and the point of maximum depth, and shall be spaced at not more than 25 foot intervals measured peripherally, except that depth markings are not required at zero-depth edge.

- 2) Depth markers shall indicate pool depth in either feet, feet and inches, or feet and fractions of a foot, and shall be of a color that contrasts with the background. Numerals indicating depth shall be a minimum of four inches high.

- 3) In shallow areas, "no diving" markers or symbols at least four inches high must be located at not more than 25 foot intervals around the pool perimeter except at a zero-depth edge.

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3) Walkways and Deck Areas

- 1) Except for plunge pools, wave pools and lazy rivers, pools shall be completely surrounded by a deck that is at least four feet in width and extends completely around and adjacent to the pool. Except as allowed for wave pools in subsection (u)(3), there shall be no obstructions or interruptions of the pool deck within the four feet adjacent to the pool other than necessary structural supports, or appurtenances such as diving boards, slides, perimeter overflow systems, or handrails. A clear, unobstructed walkway at least 42 inches in width shall be maintained at such obstructions or interruptions.
- 2) Structural supports located within the minimum required deck width or within four feet of the swimming pool shall be no closer than 10 feet apart measured parallel to the adjacent perimeter of the pool, with the dimension of any single support in a plane parallel to the adjacent pool perimeter no greater than three feet and the sum of all such support dimensions no greater than 10 percent of the pool perimeter.
- 3) The deck between two adjacent swimming pools shall be at least eight feet wide. All decks and walkways shall have an unobstructed overhead clearance of at least seven feet.
- 4) Deck Coverings. Synthetic material may be installed if it meets the following criteria:
 - A) It is non-fibrous and allows drainage such that it will not remain wet or retain moisture;
 - B) It is inert and will not support bacterial or fungal growth;
 - C) It is durable;
 - D) It is cleanable; and
 - E) It provides a slip-resistant finish.
- 5) The deck shall slope at least one inch per ten feet to deck drains or to the surrounding ground surface. The maximum slope of the pool deck shall not exceed one inch per foot.
- 6) Except for linear drains, deck drains shall be located so that not more than 900 square feet of deck area is tributary to each drain, and deck drains shall not be more than 30 feet apart. Deck drains shall be located so that water does not drain more than 15 feet in any one direction. Where deck widths are 15 feet or less, deck drains are not required provided that the deck drains to the ground surface. The deck drains shall not be connected to the pool water recirculation system. Pools designed to operate where the pool water level is at the deck level, may be allowed to drain the first four feet of deck into the pool perimeter overflow system. Up to 10 feet of the deck adjacent to a zero-depth edge may be drained into the pool.
- 7) The decks and walkways shall have a paved surface. The surface of the pool deck, and other surfaces used for foot contact, such as gratings of perimeter overflow systems, shall be slip-resistant.

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- 8) The outer perimeter of the deck for outdoor pools shall be at least four inches higher than the surrounding ground surface except where access is provided to adjacent turf areas, which is flush with the deck.
- 9) Any opening in the deck shall have a locking type cover, which is flush with the deck.
- 10) Hose bibbs shall be provided for cleaning all parts of the pool and deck (maximum separation 150 feet).
- 11) Except for wave pools, the vertical distance between the surface of the deck, pool curb or pool rim and the water level shall not exceed 10 inches.
- 12) A pool perimeter curb or raised rim, if provided, shall be at least four inches in height, measured above the adjacent pool deck surface. This requirement does not apply to a handhold provided in accordance with subsection (h)(6).
- k) Ladders, Step-Holes, Steps and Ramps
 - 1) Swimming pools shall have at least two means of egress, located near opposite ends. Pools 30 feet or more in width shall have at least four means of egress that shall be located near each end and on opposite sides. A means of egress shall consist of a ladder, step-holes and grab rails, stair, ramp, or zero-depth edge. The distance from any point with a depth greater than 30 inches in the swimming pool to a means of egress shall not exceed 50 feet. At least two ladders or sets of step-holes shall be located at the deep area of the swimming pool when more than one diving board is provided.
 - 2) Step-holes shall have a minimum tread depth of five inches. Where step-holes or ladders are provided, there shall be a handrail or grabrail at the top on both sides, which extends to the edge of the pool.
 - 3) Steps shall be of contrasting color or marked to contrast from the pool floor and have uniform size treads of at least 12 inches and a rise of no more than 12 inches. Steps shall be located where the water depth is three and one-half feet or less and shall have no pointed or sharp edges. One sturdy handrail or grabrail per 12 feet of step width or fraction thereof, extending the length of the steps, shall be provided.
 - 4) All ladders, step-holes, and steps shall have slip-resistant surfaces.
 - 5) Ramps shall slope at no more than one in 12, shall have a slip-resistant surface, shall be no more than four feet wide, and shall have handrails on both sides.
- l) Drinking Fountains. A drinking fountain shall be provided for the use of bathers on the pool deck.
 - m) Diving Area
 - 1) Handrails shall be provided at all steps and ladders leading to diving boards, except for those ladders set at 15° or less from the vertical. Platforms and diving boards which are one meter or higher shall be protected with guard railings. One meter diving

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board guard rails shall be at least 30 inches above the diving board and extend to the pool water's edge. All platforms or diving boards higher than one meter shall have guard rails which are at least 36 inches above the diving board or platform and extend to the pool water's edge. Three meter platforms and boards shall have a side rail barrier.

2) The dimensions of the diving area of a pool that has diving boards or platforms of three meters or less in height shall conform to those shown in Appendix A, Illustration C. In such pools, the distance from the plummet to the pool wall ahead shall be at least 34 feet.

3) Swimming pools constructed with diving facilities in excess of three meters in height shall comply with dimensions given in Appendix B, Table A and illustrated in Appendix A, Illustration D. If the pool is used for swimming as well as diving and if slope N transitions from the deep to the shallow end, then transition slope N shall not be steeper than one foot in three. There shall be no obstruction extending from the wall or the floor into the clear area of the diving portion of the pool. There shall be an unobstructed distance of 16 feet above the diving board measured from the center of the front end of the board, and this clearance shall extend at least eight feet behind, eight feet to each side, and 16 feet ahead of the measuring point.

5) A plunge area shall be designated for each diving board or platform. There shall be no overlap from plunge areas of other diving facilities or slides. The plunge area for a diving board of one meter height or less shall extend four feet laterally from the center of the board on either side and for a distance of 28 feet in front of the tip of the board. For diving boards or platforms greater than one meter in height, the plunge area shall extend six feet laterally from the center of a diving board or from the side of a platform on either side and for a distance of at least 34 feet in front of the board or platform.

n) Starting Platforms

1) For swimming pools issued a construction permit after May 20, 1999, or starting platforms installed after that date at existing pools, starting platforms shall only be installed where the water depth is at least 3 1/2 feet. Starting platforms for competitive swimming shall not be installed where the water depth is less than five feet, except for existing starting platforms that were initially installed at a swimming pool before May 26, 1999.

2) The top front edge of the platform shall be no more than 30 inches above the water level for water depths 4 feet or more. For water depths between 3 1/2 and 4 feet, the top front edge of the platform shall not exceed 20 inches. Starting platforms that were installed at a swimming pool before May 26, 1999, shall be removed if not located where the water depth is at least 3 1/2

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feet--or--shall-be-relocated-to-a-location-where-the-water-depth is-at-least-3-1/2-feet.

3) The-height-of-starting-platforms-measured-above-the-pool-water-levels-shall-not-exceed-the-following:

A) 36-inches-for-starting-platforms-located-where-the-water-depth-is-five-feet-or-more.

B) 18-inches-for-starting-platforms-located-where-the-water-depth-is-less-than-five-feet.

c) Electrical Installation - Lighting

1) All aspects of the facility shall conform with the 1999 National Electrical Code.

2) Artificial lighting shall be provided at all indoor pools and at all outdoor pools that are open for use after sunset in accordance with one of the following:

A) Underwater lighting of at least 8.35 lumens or 0.5 watts per square foot of pool water surface area, located to provide illumination of the entire pool floor; plus area lighting of at least 10 lumens or 0.6 watts per square foot of deck area.

B) If underwater lights are not provided, at least 33.5 lumens or 2.0 watts per square foot of pool water surface area and deck area.

3) Where portable electric vacuum cleaning equipment is used, electrical receptacles with ground-fault circuit interrupter protection shall be provided. Separation between receptacles shall be a maximum of 100 feet. All receptacles installed in the swimming pool area shall have waterproof covers and ground-fault circuit interrupter protection.

4) Light dimmers may not be installed on underwater lighting or lights for the pool deck.

5) Lighting controls shall not be accessible to the public.

p) Acoustics. Indoor pools shall receive acoustical treatment.

q) Ventilation. Indoor pools shall be mechanically ventilated, and have humidity control. The ventilation system shall be capable of admitting 0.5 cubic feet per minute of outdoor air per square foot of floor area, including water surface area, in the pool enclosure.

r) Plumbing. All plumbing shall be in accordance with the Illinois Plumbing Code (77 Ill. Adm. Code 890).

s) Emergency Telephone

Every swimming pool shall have a telephone which is accessible within the confines of the pool area or within 300 feet of the pool area, in case of emergencies.

t) Equipment Rooms

1) Equipment for swimming pool water treatment shall be housed in a lighted and ventilated room which affords protection from the weather and prevents unauthorized access.

2) The equipment room floor shall slope toward drains and shall have a slip-resistant finish.

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- 3) A hose bibb shall be installed in the equipment room.
- 4) Suitable space, if not provided in the equipment room, shall be provided within the premises for storage of chemicals, tools, equipment, supplies and records and shall be weatherproof and protected from unauthorized access.
- 5) Electrical receptacles in the equipment room shall have ground-fault circuit interrupter protection.
- u) Wave Pools. Wave pools shall comply with the following, and, except as specified below, with the requirements of this Section and Sections 820.210 and 820.220 of this Part:
- 1) Overflow gutters, skimmers, and inlets are not required along the deep end wall from which waves are generated.
 - 2) Wave generating equipment must be installed and shall be provided with an emergency shut-off located at lifeguard chairs or stations on each side of the deep end of the pool.
 - 3) A deck as specified in subsection (i) of this Section is required, except at the end of the pool where wave-generating equipment is located. Railing or other barriers may be installed on the deck adjacent to the sidewalls of the pool to control entry into the pool from the sides. ~~the A-safety-railing-at-least 30-inches-in-height-shall-be-installed-along-the-edge-of-the-deck where-the-water-depth-is-between-2-feet-and-3-1/2-feet-in-depth.~~
 - 4) A safety rope will not be required if the pool is to be used only as a wave pool.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 820.210 Swimming Pool Water Treatment System

- a) General. A water treatment system, consisting of pumps, piping, filters, water conditioning, disinfection equipment and other accessory equipment shall be provided to clarify, chemically balance and disinfect the swimming pool water. The system shall be designed for a recirculation flow rate that will result in a turnover period in each pool not exceeding those specified below. Systems serving pools with skimmers shall be designed for a flow rate of at least 30 gallons per minute for each skimmer.

Type of Pool	Maximum Turnover Period
Diving Pools	8 Hours
Wading Pools, Wading Areas	2 Hours
Plunge Pools and Plunge Areas for Water Slides	2 Hours
Lazy Rivers	6 Hours
Other Pools	

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Other than equipment for circulating, heating, filtering and chemically treating water, as specified in this Section, or for automation of water quality control, no other type of device may be utilized as part of a pool water treatment system.

- b) Pumping Equipment
- 1) The recirculation pump shall deliver the flow necessary to obtain a turnover as specified in subsection (a) of this Section. A valve for regulating the rate of flow shall be provided in the recirculation pump discharge piping.
 - 2) The pump shall provide a minimum backwash rate of 15 gallons per minute per square foot of filter area in sand filter systems. The pump shall supply the required recirculation rate at a total dynamic head of at least 50 feet for all vacuum filters, 70 feet for pressure sand or cartridge filters, or 80 feet for pressure diatomaceous earth filters, unless a lower head is shown by the designer to be hydraulically appropriate.
 - 3) If the pump operates with static suction lift, it shall be self-priming.
 - 4) Where vacuum filters are used, a vacuum limit switch shall be provided on the pump suction line. The vacuum limit switch shall be set for a maximum vacuum of 18 inches of mercury.
 - 5) A compound vacuum-pressure gauge shall be installed on the pump suction line as close to the pump as possible. A vacuum gauge may be used for pumps with suction lift. A pressure gauge shall be installed on the pump discharge line adjacent to the pump, with no valves between the pump and the gauge. Gauges shall be installed where they can be easily read.
 - 6) Hair and lint strainer. A hair and lint strainer shall be installed on the suction side of the pump except on vacuum filter systems. The strainer basket shall be easily removable. Valves shall be installed to allow the flow to be shut off during cleaning, switching baskets, or inspection.
- c) Water Heater. A water heater shall be installed at all indoor pools. Pool water heaters shall be installed in accordance with the manufacturer's recommendations.
- 1) The heater piping system shall be equipped with a valve bypass pipe around the heater, sized for the swimming pool design flow rate. The influent and effluent heater piping shall be valved, and shall conform to material specifications as approved for water distribution applications in the Illinois Plumbing Code.
 - 2) A heating coil, pipe or steam hose shall not be installed in a swimming pool.
 - 3) Thermometers shall be provided in the piping to check the temperature of the water returning from the pool and the temperature of the blended water returning to the pool.
 - 4) The design of the water heating system shall prevent the introduction of water in excess of 115° F. to the pool.
 - 5) A pressure relief valve with a maximum pressure rating of 75

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pounds per square inch and having a thermal capacity at least equal to the heat input rating of the heater shall be provided, with the discharge piped to within six inches of the floor.

- 6) Venting of gas or other fuel burning water heaters to the outdoors shall be provided.
- 7) Heaters for indoor pools shall be capable of maintaining a minimum pool water temperature of 76° F.
- 8) Combustion and ventilation air shall be provided for fuel burning water heaters as required by the heater manufacturer.
- 9) Heaters for indoor swimming pools shall be sized on a basis of 150 BTU per hour input per square foot of pool water surface area.

(1 kilowatt = 3,412 BTU/hr.)

- 10) Heat exchangers used to heat pool water shall be of double-wall construction.

- d) Flowmeter. Flowmeters shall be located so that the rate of recirculation and the backwash rate of sand filters can be read. In a multiple pool system, flowmeters shall be provided for each pool. Separate flowmeters shall be provided to monitor the flow for each area of a pool with a turnover rate that differs from adjacent areas according to subsection (b)(1). Flowmeters shall be provided on inlet supply piping in accordance with subsection (f)(2)(F). Flowmeters shall be installed on a straight length of pipe with no valves, elbows or other sources of turbulence within 10 pipe diameters upstream or five diameters downstream from the flowmeter. (See Appendix A, Illustration G.)

- e) Vacuum Cleaning System

- 1) A vacuum cleaning system capable of reaching all parts of the pool floor shall be provided.
- 2) When the vacuum cleaning system is an integral part of the pool recirculation system, the wall fitting shall connect to the suction side of the pump ahead of the halt and lint strainer.

- f) Piping, Skimmer and Overflow System

- 1) Piping.

- A) The pool recirculation piping shall comply with the Illinois Plumbing Code for water service pipe or water distribution pipe as listed in 77 Ill. Adm. Code 890, Appendix A, Table A.

- B) The piping shall be designed to carry the required flow at velocities not exceeding five feet per second in suction piping, and 10 feet per second in pressure piping, unless greater velocities can be hydraulically provided. Gravity piping shall be sized so that the head loss in piping, fittings, valves, etc., does not exceed the head available during normal operating conditions.

- C) The following waste lines shall be provided with six inch

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air gaps at their points of discharge to the waste sump or sewer:

- i) Main drain bypass or other connections to waste.
- ii) Sub-surface drains or deck drains around a pool that discharge to a sanitary or combined sewer.
- iii) Filter backwash or drain lines and overflow lines.
- iv) Surge tank drain and overflow lines.
- v) Pump discharge to waste lines.
- vi) Gutter bypass to waste lines.

vii) ~~Beck-drainage-systems-which-involve-decks-which-drain toward-the-pool;~~

- 2) Inlets.

- A) Inlets for filtered water shall be located and directed to produce uniform circulation of water to facilitate the maintenance of a uniform disinfectant residual throughout the entire pool without the existence of dead spots, and to produce surface flow patterns that effectively assist skimming. In pools with skimmers, inlets installed where the water depth is 18 inches or more shall be installed in the pool wall at a depth of eight inches to 16 inches below the mid-point on the skimmer throat. Each inlet installed in a wall of a pool where skimmers are utilized shall be directional.

- B) The velocity of flow through any inlet orifice shall be in the range of 5 to 20 feet per second, except in pools equipped with skimmers it shall be in the range of 10 to 20 feet per second. Velocities for various flows are shown in Appendix B, Table C.

- C) Inlets installed in pool walls shall be spaced as follows:

- i) In the shallow end wall, each inlet shall serve a linear distance of no more than eight feet. In the deep end wall, each inlet shall serve a linear distance of not more than 15 feet.

- ii) In pools with a water surface area greater than 1,500 square feet or length in excess of 60 feet, additional inlets shall be provided along side walls at no more than 15 foot intervals.

- iii) The location of inlets in pools with skimmers may vary from the above requirements to allow locations that will assist in skimming.

- D) At least one inlet shall be located in each recessed stairwell or other space where water circulation might be impaired.

- E) Where floor inlets are used, inlets shall be uniformly spaced at a distance of no greater than 20 feet apart and rows of inlets shall be within 15 feet of each side wall. ~~Floor-inlets-shall-be-installed-in-wading-areas-that-are more-than-30-feet-in-width: Floor inlets shall be flush~~

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with the pool floor and shall include a diffuser plate to evenly distribute the flow in all directions.

F) Floor inlets are required in wading areas that are more than 30 feet in width.

G) If both wall and floor inlets are utilized in a swimming pool, the wall inlets and the floor inlets shall be supplied by separate piping, with valves and flowmeters installed in each so that the flow can be individually regulated and monitored.

3) Outlets.

A) All pools shall be provided with a main drain at the deepest point. The main drain shall be connected to the recirculation system. Openings must be covered by grating which cannot be removed by bathers without the use of tools. Openings of the grating shall be at least four times the area of the main drain pipe or have an open area so that the maximum velocity of the water passing through the grate does not exceed one and one-half feet per second, or six feet per second when drain grate is of the anti-vortex type. The maximum width of grate openings shall be one-half inch. Main drains and all other suction outlets installed in a pool shall be designed to prevent bather entrapment by one of the following methods:

- i) Multiple drains located at least three feet apart, center to center;
 - ii) One anti-vortex drain;
 - iii) A single drain with a grate of at least 18 inches by 18 inches.
- B) Multiple outlets shall be provided where the width of the pool is more than 45 feet. In such cases, outlets shall be spaced not less than three feet apart, nor more than 30 feet apart, nor more than 15 feet from side walls, and shall be connected in parallel.
- C) A hydrostatic relief valve shall be provided for in-ground pools.
- D) Main drain piping shall be sized for removal of the water through it at a rate of at least 100% of the design recirculation flow rate. The piping system shall be valved to permit adjustment of flow through it.
- E) In cases where the pool cannot be drained completely through the main drain, a portable pump which will effect complete pool drainage shall be provided.
- 4) Perimeter Overflow Systems.
- A) Pools which have a width exceeding 30 feet shall have a continuous perimeter overflow system.
 - B) A perimeter overflow system shall:
 - i) extend completely around the pool except that interruptions not exceeding 25% of the pool perimeter

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nor 30 feet each may be allowed for steps, water slide entries, and side walls adjacent to zero-depth edges;

ii) permit inspection, cleaning, and repair;

iii) be designed so that no ponding or retention of water occurs;

iv) be designed to prevent the entrapment of bather's arms, legs, and feet;

v) except at a zero-depth edge, have an overflow lip that provides a good handhold and is level to within one eighth of an inch. At a zero-depth edge, a trench drain covered with a slip-resistant grating installed flush with the pool deck and with the pool floor, and level to within one-eighth inch measured along the pool perimeter, shall be provided;

vi) provide for the removal of all surface debris skimmed from the pool;

vii) be designed for removal of water from the pool surface at a rate of at least 100% of the design turnover flow rate;

viii) discharge to the recirculation system;

ix) be provided with drains and piping which will not allow the overflow channel to become flooded when the pool is in use; and

x) have drain gratings with open area at least equal to two times the area of the outlet pipe and which can be removed for cleaning.

C) Surge Capacity. Perimeter overflow systems shall be provided with a surge capacity of at least 0.6 gallon per square foot of pool water surface area. Surge capacity shall be provided either in a vacuum filter tank, in the perimeter overflow system, in the pool in conjunction with provision of surge weirs in the perimeter overflow system, in a surge tank, or combination thereof. Valving shall be provided to maintain the proper operating water level in the pool.

Surge weirs shall pass at least 50 percent of the design recirculation flow rate with the water level at the mid-level of the weir. A minimum of one weir shall be provided for each 500 square feet of pool water surface area or fraction thereof. The combined flow rate through all the surge weirs shall not exceed the design recirculation flow rate. Surge weirs shall be uniformly spaced around the pool perimeter. The mid-level of the weir opening shall be at least one inch but no more than two inches below the overflow lip of the perimeter overflow system. A flow-regulating device that will maintain a relatively constant flow rate as the water level is varied shall be included. Surge weirs shall not be utilized at a zero-depth

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- pool.
- 5) Skimmers. Skimmers are permitted on pools where the width does not exceed 30 feet. Where skimmers are provided, the following shall be met:
 - A) At least one skimmer shall be provided for each 500 square feet of water surface area or fraction thereof;
 - B) Skimmers shall be located to optimize skimming;
 - C) Each skimmer and piping shall be designed so that it is capable of providing a flow-through rate of less than 30 gallons per minute;
 - D) Skimmers shall be piped to provide approximately equal flow through each skimmer;
 - E) The surface skimmer piping shall have a valve to permit adjustment of flow through it;
 - F) Each skimmer shall be provided with an equalizer line at least 1 1/2 inches in diameter, located at least 1 foot below the lowest overflow level of the skimmer. (See Appendix A, Illustration H) A device that will restrict flow through the equalizer pipe during normal operation of the skimmer shall be installed, and a grate shall be installed at the intake to the equalizer pipe in the pool. The grate shall be a convex grate intended for this purpose or one that complies with subsection (f)(3);
 - G) The skimmer shall be tested in accordance with NSF Standard 50 and listed by an approved certification agency;
 - H) Skimming devices shall be built into the pool wall;
 - I) A basket which can be removed without the use of tools and through which all overflow water must pass, shall be provided;
 - J) The skimmer shall be provided with a floating weir and shall operate at variations in water level over a range of at least 4 inches.
 - g) Make-up Water. Make-up water shall be added through a fixed air gap of at least six inches to the pool, surge tank, vacuum filter tank, or other receptacle. When make-up water is added directly to the pool, the fill-spout shall be located under a low diving board or immediately adjacent to a ladder rail, grab rail, or fixed lifeguard chair.
 - There shall be no connection between a therapy pool or associated water treatment system with a swimming pool or its recirculation system.
 - h) Filtration
 - 1) Filters shall be certified to comply with NSF Standard 50 and listed as such by an approved certification agency. The design filtration rate in the particular application in which the filter is utilized shall not exceed the maximum design filtration rate for which the filter was certified. An official certification label from the certifying agency shall be permanently affixed to

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- the filter.
- 2) Pressure gauges that indicate the inlet and outlet pressures of pressure filters shall be installed.
 - 3) For pressure filters, an observable free fall discharge, sight glass or other means of determining the clarity of backwash water shall be provided.
 - 4) Overflow piping shall be connected to vacuum filters if the rim of the filter tank is below the pool water level. Drain piping for vacuum filter tanks shall be provided.
 - 5) The backwash rate for sand filters shall be at least 15 gallons per minute per square foot of filter area. A lesser backwash rate may be allowed when air scouring is utilized in accordance with the filter manufacturer's specifications.
 - 6) A filter backwash disposal facility, designed so that flooding, overflowing or excessive splashing does not occur when the filter is backwashed at the required flow rate, shall be provided where filters designed to be backwashed are utilized.
 - 7) A filter precoat pot or funnel shall be installed on the pump suction piping when diatomaceous earth filters are utilized, unless a precoat pot is provided as an integral part of the filter. The filter piping shall allow recycling or disposal of filter effluent during the precoating operation.
 - 8) If continuous feeding of diatomaceous earth is utilized with a vacuum diatomaceous filter in order to permit a design filtration rate higher than would otherwise be allowable, equipment capable of feeding diatomaceous earth at a rate of at least 1.5 ounces per day per square foot of filter area shall be provided.
 - 9) Filter media for sand filters shall be as specified by the filter manufacturer.
- 1) Equipment Capacity.
 - A) Chlorine. Equipment for supplying chlorine or chlorine compounds shall be of sufficient capacity to feed chlorine at a rate of eight parts per million for outdoor pools and three parts per million for indoor pools, based on the flow rate required by the table in subsection (a). Feed rates for various chlorinators and solutions are shown in Appendix B, Table D.
 - B) Bromine. Equipment for supplying bromine shall be capable of delivering at least 15 parts per million for outdoor pools and five parts per million for indoor pools based on a minimum design flow rate as required by the table in subsection (a).
 - C) Ozone.
 - 1) Ozone may be used as a supplement to chlorination or bromination as required in subsection (1)(1). Ozone generating equipment and its components shall be tested in accordance with NSF Standard 50 and listed by an

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approved certification agency.

- ii) The ambient air ozone concentration shall be less than 0.10 parts per million (p.p.m.) in the vicinity of the ozonator and at the pool water surface. Ambient ozone monitors shall be installed in the equipment room, in the vicinity of the ozone generating equipment, and, when the ozonation system is utilized at an indoor swimming pool facility, in the swimming pool enclosure. Audible and visual alarms that are activated by ozone concentrations in excess of .10 parts per million shall be connected to the ozone monitor. The ozone generating equipment shall automatically shut off when the ozone concentration in the air exceeds 0.30 p.p.m. or when the pool recirculation flow is interrupted.

- iii) All corona discharge systems shall include a method for removing ozone in the water in excess of 0.1 p.p.m. prior to return to the pool.

- 2) Positive Displacement Pumps (Hypochlorinators). Where positive displacement pumps are used to inject the disinfectant solution into the recirculation line, they shall be of variable flow type, be of sufficient capacity to feed the amount of disinfectant required by subsection (i)(1), and shall be installed such that feeding of chemicals is interrupted whenever the swimming pool recirculation flow is interrupted. Positive displacement pumps for feeding chlorine compounds or chemicals for control of pH shall be certified by a certified laboratory to conform to NSF Standard 50. If calcium hypochlorite is used, the concentration of calcium hypochlorite in the solution shall not exceed five percent by weight. The solution container shall have a minimum capacity equal to the volume of solution required per day at the feed rate required in subsection (i)(1).

- 3) Gas Chlorinators.
A) The chlorine supply and gas feeding equipment shall be housed in a separate, relatively air-tight room with an out-swinging door. The room shall be provided with an exhaust system which takes its suction not more than eight inches from the floor and discharges outdoors in a direction to minimize exposure to toxic fumes. The fan shall be capable of producing one air change per minute. Means for introducing a fresh air supply to the enclosure through appropriate openings such as filters, grill openings, etc., at a high point opposite the exhaust fan intake shall be provided. The intake to the make-up air supply shall be located where the discharge from the exhaust system will not be drawn back into the room. The room shall have a window with an area of at least 100 sq. inches and shall have artificial lighting. Electrical switches for lighting and ventilation shall be outside and adjacent to the door.

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Scales for weighing chlorine cylinders in service shall be provided.

- B) The chlorine feeding device shall be designed so that during interruptions of the flow of the water supply, gas feed is automatically terminated. In addition, the release of chlorine shall be terminated when the recirculation pump is shut off. Where other than swimming pool recirculated water is used, the supply line shall be equipped with an electric shutoff valve wired to the recirculation pump and shall be equipped with a suitable backflow preventer. (See Appendix A, Illustrations L and N for methods of installation.)

- C) Chlorinator vent lines shall terminate outdoors. A screen made from a chlorine-resistant material shall be installed where the vent line terminates outdoors in order to exclude insects.

- D) The gas chlorinator shall be the solution feed type capable of delivering chlorine at its maximum rate without releasing chlorine gas to the atmosphere.

- E) The water supply for the gas feeding equipment shall produce the flow rate and pressure required according to the manufacturer's specifications for proper operation of the equipment.

- 4) pH Control Feeders. At pools with a volume greater than 100,000 gallons, or pools utilizing gas chlorine as a disinfectant, a chemical feed system shall be installed to maintain the pH of pool water within the range of 7.2 to 7.6. The system must be installed so that the feeding of the pH controlling chemical is automatically interrupted whenever the swimming pool recirculation flow is interrupted. A solution tank of at least 15 gallons capacity shall be provided and shall be marked as containing a chemical to control pH. Alternatively, a system incorporating a cylinder of carbon dioxide and injecting mechanism may be employed to lower pH.

- 5) Erosion Type Chemical Chlorine Feeders.

- A) Erosion type chlorine and bromine feeders shall be tested in accordance with NSF Standard 50 and listed by an approved certification agency.

- B) Only the chemical specified by the feeder manufacturer shall be used as the disinfecting agent.

- C) Erosion type chemical feeders shall be installed in accordance with the equipment manufacturer's instructions.

- 6) Copper/Silver and Copper Ion Generators. All copper/silver and copper ion generators shall be tested in accordance with NSF Standard 50 and listed by an approved certification agency and may only be used as a supplement to chlorination or bromination as required in subsection (i)(1).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 820.220 Swimming Pool Bather Preparation Facilities

- a) General. Bather preparation facilities shall be provided in accordance with subsections (b), (c) and (d) of this Section except where the pool is intended to serve living units (such as hotels, motels, apartments, condominiums, dormitories, subdivisions, and resident institutions) where each living unit contains at least one toilet and one shower and is within 500 feet of the pool entrance.
- b) Design Requirements
- 1) Bather preparation facilities to be used by both sexes shall be divided into separate areas designated for each sex.
 - 2) Floors of bather preparation facilities, including showers, restrooms, dressing and locker rooms, and connecting walkways, shall be slip-resistant, impervious to moisture, and sloped to drain at least one inch in 10 feet. Material used for **bathroom** flooring covering in these areas shall comply with Section 820.200(j)(4).
 - 3) The layout of bather preparation facilities serving pools with bather loads of greater than 200 shall be such that passage from the showers to the swimming pool shall not require passage through dressing room areas and other dry areas of the bathhouse.
 - 4) The rooms shall be ventilated and lighted.
 - 5) A hose bibb shall be provided in each side of the bather preparation facilities.
 - c) Showers, Toilets, and Lavatories. Showers and lavatories shall be provided with liquid or powdered soap dispensers. Showers shall be supplied with water at a temperature of at least 90° F and not more than 115° F with temperature controls that prevent scalding. The number of fixtures provided shall be as shown in Appendix B, Table E. At a swimming pool used by school classes, one shower for every four persons in the largest class shall be provided for each sex, except that in no case shall the number be less than shown in Appendix B, Table E.
 - d) Dressing Rooms. For pools with a bather load of more than 200, a dressing area shall be provided for each sex. Shower and toilet areas and walkways shall not be considered dressing areas.
 - e) Foot Spray. A foot spray, if provided, shall be supplied from the potable water system or the swimming pool recirculation system, have a spray head 18 to 24 inches above the walkway, have a conveniently located valve, be arranged to spray the bathers from knees to feet as they enter the enclosure, and have a drain.
 - f) Foot Bath. No new footbaths may be constructed or installed after May 20, 1999.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 820.230 Wading Pools

- a) Floor. The floor shall be slip-resistant and sloped to the main drain. The slope shall not exceed one vertical in 12 horizontal. No obstructions such as raised drains or steps on which children may fall or become injured, shall be placed in the wading pool area. Designed play items shall be of a design and so located to provide maximum safety to the children.
- b) Material. The floor and walls shall be of light colored impervious materials. All corners shall be coved.
- c) Walk Area. There shall be a walkway at least four feet wide extending entirely around the pool sloped to drain away from the pool. The walks shall be constructed of impervious material with a slip-resistant finish. The walks shall slope not less than one inch in 10 feet away from the pool edge. A hose bibb shall be installed in the pool area.
- d) Barrier. A fence or other effective barrier, at least 3 1/2 feet in height, ~~to separate the wading pool from other pools~~, shall totally enclose the wading pool and shall separate the wading pool from other pools. Except with regard to height, the barrier shall comply with Section 820.200(a). Any entrance into the wading pool enclosure shall be equipped with a self-closing and self-latching door or gate.
- e) Inlets. Inlets shall be provided as specified for swimming pools by Section 820.210(f)(2). At least two water inlets shall be installed.
- f) Drains. A minimum of two main drains shall be provided at the low point, located at least three feet apart center to center and connected to the recirculation system. The drains shall be piped and valved so that water from the wading pool can be drained by bypassing the filter. Drains shall be provided with grates in compliance with Section 820.210(f)(3)(A) and shall be flush with the pool floor.
- g) Overflow System. A perimeter overflow system shall be provided along at least one-sixth of the perimeter or a skimmer shall be provided for each 500 square feet of water surface area or fraction thereof. The design of the overflow system shall conform to the requirements listed in Section 820.210, except that if a skimmer equalizer line is provided, it shall be connected to the main drain line.
- h) Water Treatment. Recirculation and filtration equipment shall be installed and operated at wading pools that cannot be adequately served by an adjacent swimming pool recirculation system or when existing equipment on adjacent swimming pool recirculation systems cannot meet the requirements of Section 820.210. A separate disinfection system shall be installed and operated for the wading pool. The design of water recirculation, filtration, and disinfection systems shall be in conformance with Section 820.210.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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SUBPART D: OPERATIONAL REQUIREMENTS

Section 820.300 Personnel

- a) Manager/Operator. A pool manager/operator shall be designated and shall be responsible for the operation of the swimming pool facility in compliance with this Subpart.
- b) Lifeguards. Lifeguards shall be provided as specified below when persons under the age of 16 are allowed in the pool enclosure specified in Section 820.200(a) area without supervision by a parent, guardian or other responsible person at least 16 years of age. At facilities where lifeguards are not provided, a sign shall be posted that states "this facility is not protected by lifeguards. Persons under the age of 16 must be accompanied by a parent, guardian or other responsible person at least 16 years of age. Swimming alone is not recommended."

1) Certification. Lifeguards shall be currently certified as such by the American Red Cross, the National Pool and Water Park Lifeguard Training Program, the YMCA, or another lifeguard certifying organization with an equivalent lifeguard certification program, as determined by the Department. Where the certification was issued with restrictions, the certification shall be appropriate for the duty to which the lifeguard is assigned.

2) Authority. Lifeguards shall have the authority to order any person who does not comply with the rules of the Department or those of the facility to leave the pool.

3) Identification. Lifeguards shall be dressed in swimming attire and be identified as a lifeguard. A copy of each lifeguard's certificate must be available for inspection at the facility.

4) Minimum number. At facilities where lifeguards are required, the following minimum number shall be on duty:

- A) One At--pool--one lifeguard per 100 square feet of water surface area, whichever will result in the lesser greater number. A lifeguard shall not simultaneously guard more than one pool unless the areas under surveillance can be continuously monitored with a clear unobstructed view and immediate assistance can be rendered if needed. At wave pools, a minimum of one lifeguard per 2000 square feet of water surface area shall be provided;
- B) At water slides or drop slides, one lifeguard within 50 feet of the discharge point of the slide. Such lifeguards shall not be responsible for guarding the plunge area for the slide and shall be in voice or visual communication with the attendant or lifeguard at the top of the slide in order to ensure safe use of the slide. One lifeguard may monitor up to three slides if they are adjacent to and discharge to the

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5) same plunge area other-~~portions-of-a-swimming-pool-or-beach~~. Lifeguards shall not be subject to duties that would distract their attention from proper observation of persons in the pool area, or that would prevent immediate assistance to persons in distress in the water.

- c) Attendants. At least one attendant or lifeguard shall be on duty at the top of all water slides and drop slides when the slide is in operation in order to control the traffic of individuals using the slide. Attendants shall ensure that the slide is used in a safe and responsible manner. For multiple slides having a common starting platform, an attendant shall not be assigned to monitor more than two slides concurrently.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 820.310 Safety Equipment

The following safety equipment shall be readily available for emergency use at all times when the swimming pool facility is open for use:

- a) Rescue Equipment. The following rescue equipment shall be provided and conspicuously displayed at swimming pools except when certified lifeguards are provided and each lifeguard is equipped with a rescue device approved by the lifeguard certifying organization.

1) A U.S. Coast Guard approved ring buoy with an attached throw rope with a length at least equal to the maximum width of the swimming pool or 50 feet, whichever is less. One such buoy shall be provided for every 2000 square feet of water surface or fraction thereof.

2) A life hook or shepherd's crook at least 12 feet in length.

- b) First Aid Kit. One or more first aid kits shall be kept filled with contents as required in Appendix B, Table B. Items which have a shelf life shall be kept current.

c) Emergency Telephone and Emergency Contact List. A telephone shall be accessible in the vicinity of the swimming pool, in or within 300 feet of the pool enclosure. At a multi-level facility, the emergency telephone shall be located within three levels of the level on which the pool is located. The telephone numbers of the local police, State police, fire department, physician, ambulance service, and a hospital, or 911 where applicable, shall be posted in a conspicuous place near the telephone. The name, address and telephone number of the swimming pool shall be listed by the telephone. The location of the emergency telephone shall be posted in the swimming pool area unless the telephone is located in the pool area.

- d) Lifeguard Stations. Lifeguard ~~chairs~~ or stations shall be located so as to provide a clear unobstructed view of the pool area under surveillance.

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 820.330 Swimming Pool Closing

The manager/operator shall immediately close the pool whenever any of the following conditions exist:

- a) The manager/operator determines that conditions Conditions at a swimming pool or bathhouse create an immediate danger to health or safety.
- b) Bacteriological results show any of the following:
 - 1) Coliform concentration of 10 per 100 ml in two consecutive samples;
 - 2) Presence of fecal coliform, E coli, beta hemolytic Streptococcus or Pseudomonas in any sample.
- c) Turbidity exceeds the criteria outlined in Section 820.320(d).
- d) A disinfectant residual consisting of a minimum of 0.5 p.p.m. free chlorine or 1.0 p.p.m. bromine is not present or the disinfection system is inoperable.
- e) The total chlorine concentration exceeds 5 p.p.m. or the total bromine concentration exceeds 10 p.p.m.
- f) When the recirculation pumps and/or the filters are inoperable.
- g) When the pH of the pool water is less than 6.8 or greater than 8.0.
- h) When a patron has defecated or vomited in the pool. When this occurs the manager/operator shall remove visible foreign matter and superchlorinate the affected area of the pool. The pool must remain closed for a minimum of 30 minutes following superchlorination, or longer if necessary, for the disinfectant residual to return to prescribed levels. When an incident occurs in a pool with a capacity greater than 50,000 gallons, the pool operator may elect to prohibit use of the affected area only in lieu of closing the pool.
- i) When a suction or main drain grate is loose, improperly installed, damaged or missing.
- j) When a written notice to close is issued by the Department, in which case the notice shall be posted by the owner, operator or licensee at the entrance to the pool area. The pool shall remain closed until the Department has authorized the reopening of the pool.
- k) When lightning is sighted at outdoor pool facilities (see Section 820.360).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 820.340 Operation and Maintenance

- a) Pool and Pool Area
 - 1) The swimming pool shall be maintained free from sediment, lint, dirt and hair. Cracks and other defects in the pool shall be

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- repaired. The walls, ceilings, floors, equipment and the pool proper shall be maintained so that they are protected from deterioration. All equipment shall be maintained in proper condition, with all required components in place. Equipment required to be NSF Standard 50 certified, including filters, skimmers and chemical feeding equipment, shall not be altered or modified in any way.
- 2) Pool decks shall be rinsed daily. Indoor pool decks shall be disinfected at least weekly. The walks, overflow gutters, counters, lockers, equipment, furniture, interior partitions and walls shall be kept in good repair, clean, and sanitary. No furniture, plants or other furnishings shall be placed within four feet of the pool. This area shall be kept free of obstructions such as chairs and baby strollers. The deck shall be kept free of tripping hazards, such as deck surface irregularities, hoses, baby strollers, and maintenance equipment. The deck, walkways and floors shall be free of areas with poor drainage that retain water.
- 3) Floats or tubes not in use must be removed from the pool.
- 4) Starting Platforms. Starting blocks shall not be used for any other purpose than competitive swimming activities. Starting blocks shall be securely anchored when in use but removed or prohibited from use when not being used in conjunction with competitive swimming or training. The maximum height of the platform above the water shall be 30 inches where the water depth is 4 feet or greater and 20 inches when the water depth is less than 4 feet.
- 5) Safety ropes shall be kept in place except when the swimming pool is being used exclusively for lap swimming or competition.
- 6) Access to grass areas shall be prevented when bare areas develop, when the grass is not regularly maintained, when debris is allowed to accumulate, or an unsightly condition, offensive odor, or a muddy condition exists.
- b) Perimeter Overflow and Skimmers. The perimeter overflow systems or automatic surface skimmers shall be clean and free of leaves or other debris which would restrict flow. The strainer baskets for skimmers shall be cleaned daily. Broken or missing skimmer weirs shall be replaced. The flow through each skimmer shall be adjusted as often as necessary to maintain a vigorous skimming action which will remove all floating matter from the surface of the water. The pool water shall be maintained at an elevation such that effective surface skimming is accomplished. A higher water level may be maintained during official swimming competition. For pools with perimeter overflow systems, adequate surge storage capacity shall be maintained so that flooding of the perimeter overflow system does not occur during periods of peak usage. The flow returning from the pool shall be balanced or valved such that the majority of flow is returned through the perimeter overflow or skimmer system.

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- c) Inlet Fittings. Inlets shall be checked frequently so that the rate of flow through each inlet establishes a uniform distribution pattern. Inlets in pools with surface skimmers shall be adjusted as necessary to provide vigorous skimming.
- d) Bathing Preparation Facilities
 - 1) Floors shall be cleaned and disinfected daily.
 - 2) Toilet rooms and fixtures shall be kept clean, free of dirt and debris and in good repair. Floors shall be maintained in a slip-resistant condition. Soap dispensers shall be filled and operable. A supply of toilet paper shall be provided at each toilet at all times.
- e) Foot Baths. Foot baths shall be free of dirt, debris and other floating matter and shall be operated by continuously introducing fresh water and discharging used water to waste.
- f) Security. Doors or gates in the swimming pool enclosure shall be kept closed and locked when the swimming pool is closed.
- g) Bather Loads. The number of persons within a swimming pool enclosure shall not exceed the permissible bather load established by the Department. Additional patrons may be allowed at other recreational features within the pool enclosure, such as sand play areas, turf sun-bathing areas and picnic areas, if additional toilet facilities are provided. However, the number of patrons in swimming pools, wading pools or on the pool deck shall not exceed the bather load. The bather load shall be posted at the pool entrance or at a location where it can be seen by all patrons and shall be enforced by the manager/operator.
- h) Electrical Systems shall be maintained in accordance with the National Electrical Code.
- i) Diving Equipment. Diving equipment shall be maintained in a safe condition, be securely anchored, and have a slip-resistant surface.
- j) Vacuum Cleaners. Vacuum cleaning shall not be conducted when the pool is in use.
- k) Operation of Mechanical Equipment
 - 1) Manufacturers' instructions for operation and maintenance of mechanical and electrical equipment, as well as pump performance curves, shall be kept available at the pool. All valves and piping in the equipment room must be permanently identified as to use and direction of flow. A valve operating procedure must be provided in the equipment room for each operation (e.g., recirculation, filtration, backwashing, etc.).
 - 2) Pumps, filters, disinfectant feeders, flow indicators, gauges, and all related components of the pool water recirculation system shall be kept in continuous operation 24 hours a day. A recirculation and filtration flow rate that will result in a turnover period as specified in Section 820-210 shall be maintained at all times, except for wading areas in swimming pools constructed prior to May 20, 1999 where such a flow rate cannot be attained without alteration of the recirculation

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- system, in which case a recirculation flow rate that will result in a turnover period of no more than six hours shall be maintained in the wading area. The pump shall not be throttled on the suction side during normal operation except for necessary regulation of flow through main drain piping. Recirculation pumps shall be kept in good repair and condition. The pump discharge or inlet supply line valve shall be adjusted as necessary to maintain the design flow rate.
- 4) Filtration.
 - A) The filtration flow rate shall not exceed the maximum filtration design flow rate specified by the filter manufacturer for public swimming pool usage in accordance with NSF Standard 50. Where this rate is not known or has not been determined, the flow rate shall not exceed 15 gallons per minute per square foot of filter area for high-rate sand filters, 3 gallons per minute per square foot for other sand filters, 1.5 gallons per minute per square foot for diatomaceous earth filters, or 0.375 gallons per minute per square foot for cartridge filters, except that a filtration flow rate of up to 2.0 gallons per minute per square foot may be allowed where continuous feeding of diatomaceous earth is utilized with a diatomaceous earth filter in accordance with subsection (K)(3)(C)(iii).
 - B) Sand Filters.
 - i) The filter air release valve shall be opened as necessary, to remove air which collects in the filter; and following each backwash.
 - ii) The filter shall be backwashed when the design flow rate can no longer be achieved, or when specified by the filter manufacturer, whichever occurs first.
 - C) Diatomaceous Earth Filters.
 - i) The dosage of diatomaceous earth precoat shall be at least one and one-half ounces per square foot of element surface area. Pressure diatomaceous earth filters shall be backwashed when the design flow rate can no longer be achieved or when specified by the filter manufacturer, whichever occurs first. Whenever the recirculation pump stops or is shut off, the filter shall be thoroughly backwashed and the elements shall be precoated before placing the pump back into operation. Vacuum diatomaceous earth filters shall be washed when the design flow rate can no longer be achieved or when specified by the filter manufacturer, whichever occurs first. Backwashing shall not be performed when the pool is in use.
 - ii) During the precoating operation, the initial filter effluent shall be either recirculated through the

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filter until the filter effluent is clear, or the initial filter effluent shall be discharged to waste until properly clarified water is produced.

- iii) When continuous diatomaceous earth feed is utilized so that a filter may be operated at a filtration rate higher than would otherwise be allowable, it shall be applied at a rate of one-half to one and one-half ounces per square foot of surface area per day, or as needed to extend filter cycles.

- D) Cartridge Filters. A clean extra set of filter cartridges shall be available at the pool.

- 5) Hair and Lint Strainers. Hair and lint strainers shall be cleaned to prevent clogging of the suction line and cavitation. The pump shall be stopped before the strainer is opened to avoid drawing air into the pump and losing the prime. In the case of diatomaceous earth filters, the hair strainer basket shall be cleaned immediately prior to precoatting the filter.

- 6) Flowmeters. Flowmeters shall be maintained in an accurate operating condition and readable. ~~The glass-and-the-connecting tubes-shall-be-kept-clean.~~

- 7) Vacuum and Pressure Gauges. The lines leading to the gauges shall be bled occasionally to prevent blockage.

- 8) Gas Chlorinators

- A) Gas chlorinators shall be repaired only by a person trained in servicing these units. The manager/operator shall post the telephone numbers of the appropriate emergency personnel to contact in the event of a chlorine gas emergency.

- B) Chlorine cylinders shall be stored indoors in the area designed for that purpose and away from a direct source of heat. They shall be chained or strapped to a rigid support to prevent accidental tipping. Cylinders shall not be moved unless the protection cap is secured over the valve.

- A National Institute of Occupational Safety and Health (NIOSH) or Mine Safety and Health Administration (MSHA) approved gas mask, approved for use in a chlorine atmosphere, shall be kept outside the chlorine room in an unlocked container at all times. The gas mask canister shall be replaced regularly as per the manufacturer's recommendations.

- C) Chlorinators, gas lines, injectors, vent lines and cylinders shall be checked daily for leaks. In case of a chlorine leak, corrective measures shall be undertaken only by trained persons wearing proper safety equipment. All other persons shall leave the dangerous area until conditions are again safe.

- 9) Positive Displacement Feeders.

- A) Positive displacement feeders shall be periodically inspected and serviced.

- B) When a chemical feeder is used with calcium hypochlorite

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solution, to minimize sludge accumulation in the unit, the lowest practicable concentration of solution shall be used, and in no case shall this concentration exceed five percent (about 20 pounds of 65% chlorine powder in 50 gallons of water). If liquid chlorine solution is used, the dilution with water is not critical to the operation of the unit. After first thoroughly rinsing with water, a small amount of mild acid solution may be fed through the unit periodically, to dissolve sludge accumulations.

- 1) Chlorinated Cyanurates. The use of chlorinated cyanurates is subject to the following requirements:

- 1) Superchlorination shall be accomplished by using a chlorine product other than a cyanurate; and
- 2) When the cyanuric acid level exceeds the maximum permissible limit of 100 p.p.m., the pool water must be partially wasted and replenished with fresh water until the cyanuric acid concentration is less than 50 p.p.m.

- m) pH Adjustment

- 1) Soda ash or caustic soda may be used to raise the pool water pH.
- 2) Caustic soda shall only be used in accordance with the manufacturer's instructions. Protective equipment and clothing, including rubber gloves and goggles, must be available for the handling and use of this chemical.

- 3) Sodium bisulfate, carbon dioxide gas or muriatic acid shall be used to lower pool water pH. Carbon dioxide cylinders shall be securely chained or otherwise restrained in a manner that will prevent tipping.

- 4) Hydrochloric (muriatic) acid shall only be used in accordance with the manufacturer's instructions. Protective equipment and clothing, including rubber gloves and goggles, must be available for handling this chemical.

- 5) The Department shall be consulted in the event of unusual pH problems including corrosion or scaling or wide fluctuations in pH.

- n) Algae Control

- 1) The development of algae shall be eliminated by superchlorinating to 10 p.p.m. and maintaining this level for several hours. The pool shall not be open for use during this treatment. If this fails to eliminate the algae, the Department shall be consulted for further advice.

- 2) Treated algae which cling to the floor and sides of the pool must be brushed loose, and removed by the suction cleaner and filtration system.

- o) Miscellaneous Chemicals

- 1) Chemicals shall be kept covered and stored in the original, labeled container, away from flammables and heat and in a clean, dry, well-ventilated place which prevents unauthorized access to the chemicals.

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- 2) The chemicals used in controlling the quality of water shall be used only in accordance with the manufacturer's instructions.
- 3) If polyphosphates are used for sequestering iron, the concentration of polyphosphates shall not exceed 10 p.p.m.
- p) Acoustics. If noise is excessive, such that safety instructions cannot be heard, corrective action shall be taken.
- q) Slides

- 1) Water slide equipment shall be maintained in a safe condition and securely anchored.
- 2) Only one rider at a time shall be allowed to enter a slide except when designed by the manufacturer for two or more riders.
- 3) For water slides and drop slides, when the plunge area is not visible from the top of the slide, a means of communication shall be provided between the attendant at the top and the lifeguard at the bottom.
- 4) At the entrance to water slides and drop slides, a sign shall be posted at the top of the slide warning all sliders not to proceed down the slide until instructed to do so by the slide attendant.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART E: BATHING BEACH DESIGN AND OPERATION

Section 820.400 Minimum Sanitary Requirements for Bathing Beaches

- a) Initial Sanitary Survey. Prior to the issuance of a construction permit, the Department shall conduct a sanitary survey of the proposed beach. This survey shall include an evaluation of the physical, chemical and bacteriological characteristics of the bathing beach area, as well as any potential or actual sources of contamination in the watershed which could affect the beach. The presence of any such sources of contamination shall constitute grounds to deny the permit.
- 1) Physical Quality. The following characteristics shall not be present in the beach area or watershed:

- A) Sludge deposits, solid refuse, floating waste solids, oils, grease or scum, floating waste solids, oils,
- B) Hazardous substances being discharged into bathing beach water or watershed.

- 2) Bacteriological Quality. The bacteriological quality of water at bathing beaches shall comply with the following criteria:

- A) At least two samples shall be collected from the proposed beach area and additional samples shall be collected from any tributaries as they enter the lake. Fecal coliform bacteria counts of 200 colonies/100 ml or an E. coli density of 126 colonies/100 ml in one or more samples shall require additional investigation, survey, special analysis and correction of any problems determined to be causing the high

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- counts. Subsequent evaluation and satisfactory bacteriological results must be obtained before a construction permit will be issued.

- B) There shall be no sanitary or combined sewer discharges or other raw or partially treated sewage discharges to the bathing beach area or immediate watershed.

- 3) Chemical Quality. There shall be no discharges of chemical substances capable of creating toxic reactions, or irritations to the skin or mucous membranes of a bather.

b) Design

- 1) Bather Load. The bather load shall be established at all beaches constructed after May 28, 1997, by the registered engineer or architect who designed the project.

- 2) Beach and Swimming Areas. The wading areas at all beaches shall be separated from swimming and diving areas by lines securely anchored and buoyed. The slope of the bottom of any portion of the beach having a water depth of less than 5 feet shall not exceed 1 foot vertical for 10 feet horizontal. The slope shall be uniform. The bottom of the wading and swimming area shall consist of sand or gravel. If disinfection or filtration is provided, it must comply with the requirements in Section 820.210.

3) Diving Facilities

- A) Where diving facilities are provided, the following minimum water depth must be maintained for a distance of at least 12 feet beyond the end and sides of the platform or board:

Height of Platform or Board	Minimum Water
Above Water	Depth
0 - 1/2 Meter	9.5 feet
1 Meter	10 feet
3 Meters	12 feet

- B) Handrails, guardrails and steps shall comply with the requirements of Section 820.200.

- 4) Safety Boundaries. The wading area shall be separated from swimming and diving areas by a line securely anchored and buoyed at a water depth of 5 feet or less. The limits of the swimming area shall be marked by buoys, poles, or other markers located not over 100 feet apart and visible to bathers from a distance of at least 100 feet. Within such limits of safe swimming, there shall be no boating, underwater obstructions, or other hazards which may be dangerous or cause injury to swimmers. Signs shall be provided on the beach describing such markers and stating that they indicate the limits of the swimming area.

- 5) Slides. Slides shall comply with Section 820.250.

- c) Electrical Wiring. All electrical wiring shall be in accordance with

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the National Electrical Code in effect at the time of construction.

d) Bathhouses/Toilets

- 1) Requirements for Beaches Established After May 28, 1997 (New)
For all new beaches established after May 28, 1997, a bathroom shall be provided within 300 feet of the shoreline unless the beach is intended to serve only a residential development located around the lake, and 50 or fewer bathers are anticipated to be present per day. In such cases, at least one toilet or privy shall be provided within 300 feet of the shoreline. Bathhouses shall be designed in accordance with the requirements of Section 820.220(b) and (c). The bather load to be used to determine the required numbers of fixtures shall be provided by the registered engineer or architect who designed the project.

- 2) Requirements for Beaches Established Before May 28, 1997 (Existing)

All existing beaches shall comply with the bathroom/toilet facility requirements in effect at the time they were constructed, but at least one toilet or privy must be provided when the number of bathers present per day is 50 or fewer. Two toilets or privies must be provided when the number of bathers present per day is 51 to 100. An additional toilet or privy must be provided for each 100 additional bathers. The maximum number of toilets or privies required is ten. The required toilets or privies must be located within 300 feet of the shoreline.

e) Bathing Beach Operation

- 1) Samples of bathing beach water shall be taken by the licensee or manager/operator and submitted to the Department at such times and points as designated by the Department within the area utilized for bathing or swimming purposes. Failure by the bathing beach licensee or manager/operator to submit required water samples within seven days after notification by the Department by certified mail shall be cause for the Department to order the beach to be closed until satisfactory samples are received. Additional samples shall also be obtained at any critical point subject to possible pollution as determined by a sanitary survey.

- 2) During operation, the following bacteriological water quality results shall warrant the actions described:

- A) A fecal coliform count of 500 colonies/100 ml or an E. coli count of 235 colonies/100 ml in each of two samples collected on the same day shall require closing the beach. The beach shall not be reopened until two additional samples collected on the same day are both less than 500 fecal coliform/100 ml or 235 E. coli/100 ml.
- B) A fecal coliform count of 500 colonies/100 ml or an E. coli count of 235 colonies/100 ml in any single sample of a sample set shall require the submission of two additional samples to be collected on the same day within 24 hours

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after notification by the Department. If either of the two follow-up samples exceeds a fecal coliform count of 500 colonies/100 ml or an E. coli count of 235 colonies/100 ml, the beach shall be closed and not reopened until two additional samples collected on the same day are both less than 500 fecal coliform/100 ml or 235 E. coli/100 ml.

- 3) If a survey determines that there are discharges of sanitary or combined sewers, other raw or partially treated sewage, or other hazardous substances to the beach or immediate watershed, or if hazardous materials are found at the beach, the bathing beach shall be closed by written order of the Department.

- 4) Where schistosoma dermatitis (swimmers' itch) is known to exist, appropriate measures shall be taken to protect the bathers. Such measures may include posting of warning signs, chemical treatment of the beach or closing the beach. Any chemical treatment shall comply with all federal, State and local requirements, including prior approval of the Department or its agent.

- 5) The beach manager/operator shall monitor the water depth around diving facilities and prohibit use of any such facilities which do not comply with the minimum water depth requirements of subsection (b)(3) of this Section.

- 6) For all beaches established after May 28, 1997, the beach manager/operator shall enforce the bather load established in subsection (b)(1) of this Section. Additionally, for all beaches the bather density in water less than 5 feet deep shall not exceed one bather per 25 square feet.

- 7) The beach area shall be kept free of any debris including wastes from waterfowl or other wildlife.

- 8) Leakproof, covered refuse containers shall be provided at convenient locations in the beach area. They shall be emptied when necessary to avoid odors and insect breeding.

- 9) At times when the beach is closed seasonally or during normal hours of operation during the operating season, signs proclaiming the closing of the beach shall be prominently posted at the beach unless an effective barrier to prevent access to the beach area is in place.

- f) Lifeguards shall be provided at bathing beaches which allow bathers under 16 years of age to enter the beach without a responsible person 16 years of age or older present. Lifeguards shall comply with the requirements of Section 820.300(b).

g) Safety Requirements

- 1) A U.S. Coast Guard approved ring buoy with at least 25 feet of rope shall be available at the beach when bathers are present.
- 2) A telephone shall be available within 500 feet of the beach when bathers are present. The numbers of the local police, fire department, rescue squad and ambulance, and/or 911 numbers shall be posted near the telephone. A portable phone may be used to meet this requirement. The phone may be located in a residence

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within 500 feet of the beach, provided it will be accessible at all times the beach is in operation. Unless located in the immediate beach area, a sign shall be posted indicating the location of the phone.

- 3) All drownings and injuries or illnesses requiring hospitalization shall be reported to the Department within 24 hours and the Department's "Drowning and Injury Report" form shall be completed and submitted within 7 days.

b) Waiver

- 1) A homeowner's association may apply to the Department for a waiver of the requirements of subsection (d)(2) of this Section by making a written request signed by an officer of the association. The request must contain the following information:
- A) The requirements from which the homeowner's association seeks a waiver;

- B) Certification that a majority of the members of the homeowner's association or a majority of the board of directors representing the homeowner's association agreed to be exempt from the requirements requested. If the application for waiver is based on a decision of the board of directors rather than a majority vote of the members, the waiver request must also indicate that all members of the association were notified in writing of the decision to request a waiver and of the requirements from which the association is requesting a waiver. A copy of the notification to members shall be included with the waiver request;

- C) Certification that the beach normally serves 50 or fewer bathers per day; and
- D) Certification that the use of the beach is intended only for members of the homeowner's association and their guests.

- 2) Upon submission of the waiver application, a waiver shall be granted only if the following conditions are met:

- A) All water samples were submitted during the current or previous year as required by subsection (e)(1) of this Section; and

- B) The closure standards set forth in subsection (e)(2) of this Section were not exceeded during the current or previous year or, if the closure standards were exceeded, the Department or local health department determined that the cause of the unsatisfactory water quality was not an absence of toilet facilities at the beach.

- 3) A waiver granted by the Department shall be valid indefinitely, except as provided in this subsection:

- A) A waiver shall become invalid immediately if the beach is closed due to a violation of the standards set forth in subsection (e)(2) of this Section, unless the Department or local health department determines that the cause of the

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unsatisfactory water quality was not an absence of toilet facilities at the beach;

- B) If the applicant or manager/operator fails to comply with a written order of the Department to submit water samples required by subsection (e)(1), the waiver shall become invalid the date the samples were specified to be submitted;

- C) A waiver shall not apply on any day the homeowner's association anticipates that the number of bathers will exceed 50 (for example, holiday weekends, special events, or parties).

- 4) When a waiver becomes invalid, the required toilet facilities shall be provided before the beach is allowed to operate. If a waiver is invalidated due to the conditions described in subsection (h)(3)(A) or (B), a new waiver application must be filed with and approved by the Department.

- i) The following rules governing the use of the beach shall be displayed on placards provided by the Department at the entrance to bathhouses or other conspicuous locations and shall be enforced by the beach manager/operator.

REGULATIONS - BEACHES

The following rules govern the use of the beach and shall be enforced by the beach manager/operator.

- 1) The beach water is not suitable for drinking. Avoid swallowing beach water.
- 2) Admission to the beach may be refused to all persons having any contagious disease, infectious conditions such as colds, fever, ringworm, foot infections, skin lesions, carbuncles, boils, diarrhea, vomiting, inflamed eyes, ear discharges, or any other condition which has the appearance of being infectious. Persons with excessive sunburn, abrasions which have not healed, corn plasters, bunion pads, adhesive tape, rubber bandages, or other bandages of any kind may also be refused admittance. A person under the influence of alcohol or exhibiting erratic behavior shall not be permitted in the beach area.
- 3) Littering is prohibited. In addition, no food, drink, gum or tobacco is allowed in the water. Glass containers are prohibited throughout the beach area.
- 4) All children who are not toilet-trained shall wear tight fitting rubber or plastic pants.
- 5) No one should swim alone.
- 6) Persons under the age of 16 must be accompanied by a responsible person 16 years of age or older unless a lifeguard is present.
- 7) Personal conduct within the beach must be such that safety is not jeopardized.
- 8) Diving in shallow water is not permitted.
- 9) Caution shall be exercised in the use of diving facilities.

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- 10) Swimming is prohibited after sunset or before sunrise, or when lightning is present, including a 15-minute period after the last lightning observed.
- 11) No pets are permitted in the beach area.
- 12) Feeding of wildlife or other actions that encourage their presence is prohibited.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Regionalized Perinatal Health Care Code
- 2) Code Citation: 77 Ill. Adm. Code 640
- 3) Section Numbers: Proposed Action:
- | | |
|------------|-----------|
| 640.20 | Amendment |
| 640.40 | Amendment |
| 640.41 | Amendment |
| 640.42 | Amendment |
| 640.43 | Amendment |
| 640.44 | Amendment |
| 640.45 | Amendment |
| 640.50 | Amendment |
| 640.60 | Amendment |
| 640.70 | Amendment |
| 640.90 | Amendment |
| 640.100 | Amendment |
| APPENDIX A | Add |
| APPENDIX B | Add |
| EXHIBIT A | Amendment |
| EXHIBIT B | Amendment |
| APPENDIX C | Amendment |
| EXHIBIT A | Amendment |
| EXHIBIT B | Amendment |
| APPENDIX D | Amendment |
| EXHIBIT A | Amendment |
| EXHIBIT B | Amendment |
| APPENDIX E | Repeal |
| EXHIBIT A | Repeal |
| EXHIBIT B | Repeal |
| APPENDIX F | Repeal |
| EXHIBIT A | Repeal |
| EXHIBIT B | Repeal |
| APPENDIX H | Amendment |
| EXHIBIT A | Amendment |
| EXHIBIT C | Amendment |
| EXHIBIT D | Amendment |
- 4) Statutory Authority: Authorized by and implementing the Developmental Disability Prevention Act (410 ILCS 250).
- 5) A Complete Description of the Subjects and Issues Involved: Amends the Regionalized Perinatal Health Care Code to redefine the functional capabilities of providers by the level of care provided to inpatient maternal and neonatal needs. Emphasizes early recognition and triage of perinatal problems early in pregnancy. Ensures consistency with guidelines for perinatal care. Describes four levels of perinatal care: Levels I, II, III with extended capabilities for neonatal care, and III to

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amend capabilities, responsibilities, and resource and personnel requirements. Emphasizes mutual collaboration between referring physician and Level III subspecialist. Delineates resource and personnel requirements for each level of care.

Changes exceptions process to identify local circumstances in which rules are best interpreted to meet the needs of a facility. Provides that if the applicant facility and its perinatal center cannot reach agreement on any aspect of the exceptions to the standards of care, the applicant facility or perinatal center should seek the advice and consultation of the Perinatal Advisory Committee. Provides that any exception to the standards of care of this Part shall be clearly defined in the proposed Letter of Agreement and approved by the Department before implementing the exceptions or services. Provides that the Department may permit a period of testing to demonstrate that the applicant facility's resources and quality of care are substantially equivalent to that for any facility. Provides if a dispute between the applicant facility and its Perinatal Center cannot be resolved after consultation with the Perinatal Advisory Committee, then the applicant facility, the Perinatal Center or the Perinatal Advisory Committee may submit the dispute to the Department. Provides that the Department shall review all of the relevant information and documentation that clearly substantiates the facility's compliance with particular provisions or standards of perinatal care and the recommendations of the Perinatal Advisory Committee in settling a dispute. Provides that the Department shall inform the applicant facility, the Perinatal Center, and the Perinatal Advisory Committee of its decision or judgment. Mandates development of perinatal outcome data for a quality improvement process. Changes corresponding appendix forms and instructions.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain any Incorporations by Reference? No
- 9) Are there any Other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandates on units of local government.
- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Paul D. Thompson
Division of Legal Services

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Illinois Department of Public Health
535 West Jefferson, Fifth Floor
217/782-2043
rules@idph.state.il.us

12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: Hospitals providing obstetrical and newborn services.
- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Compliance recordkeeping.
- C) Types of Professional Skills Necessary for Compliance: Professional skills required to provide perinatal health services.

13) Regulatory agenda on which this rulemaking was summarized: January 2000

The full text of the proposed rulemaking begins on the next page:

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TITLE 77: PUBLIC HEALTH

CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER 1: MATERNAL AND CHILD CARE

PART 640

REGIONALIZED PERINATAL HEALTH CARE CODE

Section	
640.10	Scope
640.20	Definitions
640.25	Incorporated Materials
640.30	Perinatal Advisory Committee
640.40	Standards for Perinatal Care
640.41	Level I - Standards for Perinatal Care
640.42	Level II and Level II with Extended Capabilities - Standards for Perinatal Care
640.43	Level III - Standards for Perinatal Care
640.44	Perinatal Center
640.45	Agency Action
640.50	Designation and Redesignation of Level I, Level II, Level III with Extended Capabilities, and Level III Perinatal Facilities
640.60	Information for Facility Designation and Redesignation as Level I, Level II, Level II with Extended Capabilities, and Level III Perinatal Facilities and Assurances Required of Applicants
640.70	Minimum Components for Letters of Agreements Between Level I, Level II, Level II with Extended Capabilities, or Level III Perinatal Facilities and their Perinatal Center
640.80	Regional Perinatal Networks - Composition and Funding
640.90	Perinatal Reporting System
640.100	High-Risk Follow-up Program
APPENDIX A	Standardized Perinatal Site Visit Protocol
APPENDIX B	Outcome Oriented Data: Perinatal Facility Designation/Redesignation
APPENDIX C	Maternal Discharge Record
Exhibit A	Maternal Discharge Record Form
Exhibit B	Instructions for Completing Maternal Discharge Record
APPENDIX D	Report of Local Health Nurse, Maternal--Prenatal
Exhibit A	Local Health Nurse, Maternal--Prenatal Form
Exhibit B	Instructions for Completing the Report of Local Health Nurse, Maternal--Prenatal
APPENDIX E	Report of Local Health Nurse, Maternal--Postnatal (Repealed)
Exhibit A	Local Health Nurse, Maternal--Postnatal Form (Repealed)
Exhibit B	Instructions for Completing the Report of Local Health Nurse, Maternal--Postnatal (Repealed)
APPENDIX F	Report of Local Health Nurse, Infant (Repealed)
Exhibit A	Local Health Nurse, Infant Form (Repealed)
Exhibit B	Instructions for Completing the Report of Local Health Nurse, Infant (Repealed)

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APPENDIX G Sample Letter of Agreement for
 APPENDIX H Written Protocol for ~~Referral/transfer/transport~~ Referral/Transfer/Transport
 Exhibit A Level I: Patients for consultation with
 (Level III facility or Perinatal Center)

Exhibit B Level II: Patients for consultation with or transfer to
 (Level III facility or Perinatal Center)

Exhibit C Level I: Maternal and Neonatal patients to be cared for at
 hospital (Level III facility or Perinatal Center)

Exhibit D Level II: Maternal and Neonatal patients to be cared for at
 hospital (Level III facility or Perinatal Center)

APPENDIX I Perinatal Reporting System Data Elements

AUTHORITY: Implementing and authorized by the Developmental Disability Prevention Act [410 ILCS 250].

SOURCE: Adopted at 5 Ill. Reg. 6463, effective June 5, 1981; amended at 6 Ill. Reg. 3871, effective March 29, 1982; emergency amendment at 8 Ill. Reg. 882, effective January 5, 1984, for a maximum of 150 days; amended and codified at 8 Ill. Reg. 19493, effective October 1, 1984; amended at 9 Ill. Reg. 2310, effective February 15, 1985; amended at 10 Ill. Reg. 5141, effective April 1, 1986; amended at 11 Ill. Reg. 1584, effective February 1, 1987; Part repealed 1986; amended at 14 Ill. Reg. 12749, effective October 1, 1990; amended at 24 Ill. Reg. _____, effective _____.

Section 640.20 Definitions

"Act" means the Developmental Disability Prevention Act [410 ILCS 250]
~~"AN-ACS relating to the prevention of developmental disabilities"~~
~~(111-Rev-Stat--1989; Ch--III-1/2; Par--2191-et-seq.)~~

"Bioethical or Infant Care Review Committee" means a hospital-based consultative group consisting of physicians and nonphysicians which can provide education, develop and recommend institutional policies, and offer consultation to providers and families facing a range of ethical problems or questions about the medical treatment of infants.

"Certified Local Health Department" means a local health department which receives program approval from the Department for all ten required basic health programs during required program and performance review.

"Congenital" means those intrauterine factors which influence the growth, development and function of the fetus. (Section 2(b) of the

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Act)

"Consultation" means an attending physician obtaining information from a maternal-fetal medicine or neonatology specialist ~~before~~ **before** ~~the~~ **at** ~~Perinatal Center~~ via the telephone, in writing, or in person for the purpose of making patient care decisions.

"Department" means the Department of Public Health. (Section 2(h) of the Act)

"Designated Local Health Agency" means an agency designated by the Department to provide maternal, infant, and family follow-up services to residents of a particular area. In areas served by a Certified Local Health Department, that department is the Designated Local Health Agency. For areas not served by a Certified Local Health Department, the Designated Local Health Agency is a Certified Local Health Department for another county which has a contract with the Department to provide maternal, infant, and family follow-up services within the area or a county nurse or community nurse agency which has a contract with the Department to provide maternal, infant, and family follow-up services within the area.

"Designation" means official recognition of a hospital facility by the Director of the Department as having met the standards contained in Section 640.40 and Section 640.50 for the level of care that the hospital will provide as a part of a regional perinatal network for all levels of perinatal care.

"Developmental Disability" means mental retardation, cerebral palsy, epilepsy, or other neurological handicapping conditions of an individual found to be closely related to mental retardation or to require treatment similar to that required by mentally retarded individuals, and the disability originates before such individual attains age 18, and has continued, or can be expected to continue indefinitely, and constitutes a substantial handicap of such individuals. (Section 2(f) of the Act)

"Disability" means a condition characterized by temporary or permanent, partial or complete impairment of physical, mental or psychological function. (Section 2(g) of the Act)

"Environmental" means those extruterine factors which influence the adaptation, well being or life of the newborn and may lead to disability.

"Family Centered Care" means the services of the health team that foster parent-newborn-family relationships such as those described in American College of Obstetricians and Gynecologists, Family Center

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Maternity/Newborn Care in Hospitals, and American Academy of Pediatrics and American College of Obstetricians and Gynecologists, Guidelines for Perinatal Care.

"Handicapping Condition" means a medically recognized birth defect that threatens life or has a potential for a developmental disability in accordance with Subpart C of the Health and Hazardous Substances Registry Code (77 Ill. Adm. Code 840.210).

"High-Risk Infant" means a live-born infant fitting the Adverse Pregnancy Outcomes Reporting Systems (APORS) case definition. (See 77 Ill. Adm. Code 840.210.)

"High-Risk" means an increased level of risk of harm or mortality to the woman of childbearing age, fetus or newborn from congenital and/or environment factors. (Section 2(d) of the Act)

"Maternity and Neonatal Service Plan" means the description required under Subpart O of the Hospital Licensing Requirements (77 Ill. Adm. Code 250) of the hospital's services for care of maternity and neonatal patients, and the way in which the services are part of an integrated system of perinatal care provided by designated perinatal facilities.

"Maternity or Neonatal Complications" means those medically determined high-risk conditions including but not limited to those explained in the Guidelines for Perinatal Care, American Academy of Pediatrics and American College of Obstetricians and Gynecologists.

"Neonate" means an infant less than 28 days of age.

"Perinatal" means the period of time between the conception of an infant and the end of the first month of life. (Section 2(a) of the Act)

"Perinatal Advisory Committee" or "PAC" means the advisory and planning committee established by the Department which is referred to in Section 3 of the Act.

"Perinatal Center" means a referral facility intended to care for the high-risk patient before, during or after labor and delivery and characterized by sophistication and availability of personnel, equipment, laboratory, transportation techniques, consultation and other support services. (Section 2(e) of the Act)

"Reactions, Skills and Abilities for Developmental Screening (RSA)" is an objective observation guide used to conduct developmental screening in children.

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"Regional Perinatal Management Group" means an organization of representatives of perinatal services, providers and service related agencies and organizations within a regional perinatal network that is responsible for the planning, development, evaluation and operation of the network and the establishment of regional priorities and policies for system support activities and staff.

"Regional Perinatal Network" means any number and combination of hospital-based maternity and newborn facilities functioning at one of three levels of perinatal care.

"Statewide Quality Council" means the advisory committee established by the Department that is responsible for monitoring the quality of care and implementing recommendations for improving the quality of care being provided in the perinatal care system.

"Support Services" means the provision of current information regarding the identified handicapping conditions ~~conditions~~, referrals and counseling services, and the availability of additional consultative services.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 640.40 Standards for Perinatal Care

a) Levels of Perinatal Care

Within each regional perinatal network there shall be three levels of perinatal care, and within Level II there shall be two categories of perinatal care: Level I or general care; Level II or intermediate care; or Level III with extended capabilities; and Level III or intensive care. Minimum licensing standards for all three levels are described in Subpart 0 of the Hospital Licensing Requirements (77 Ill. Adm. Code 250). All hospitals providing obstetrical and neonatal services shall be designated in accordance with the provisions of this Part and a letter of agreement ~~(Section 640.70)~~ with a designated Perinatal Center (Section 640.70 describes the minimum components for the letter of agreement).

b) Perinatal Network

Level I, Level II, Level III with extended capabilities and Level III facilities shall function within the framework of a regionally integrated system of services designed to maximize outcomes and to promote appropriate use of expertise and resources. Recognition of high risk conditions, prenatal consultations, referrals, or transfers are important to improve outcomes. Regional consultant relationships in maternal-fetal medicine and neonatology referred to in this Part shall be detailed in the letter of agreement. Staff physicians and consultants shall be cognizant of the standards and the guidelines in

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c) Non-Maternity General Hospitals

All licensed general hospitals that may provide emergent or urgent care shall have a letter of agreement with a Perinatal Center for referral of perinatal patients, regardless of whether they provide maternity or newborn services. This letter of agreement shall delineate but not be limited to: guidelines for transfer/transport of perinatal patients to an appropriate perinatal care facility; telephone numbers for consultation and transfer/transport of perinatal patients; educational needs assessment for Emergency Room staff, and provision of education programs to maintain emergency perinatal skills.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 640.41 Level I - Standards for Perinatal Care

Level I: To be designated as Level I, a facility shall apply to the Department as described in Section 640.60 640.40 of this part and comply with all the conditions described in Subpart 0 of the Hospital Licensing Requirements (77 Ill. Adm. Code 250) which are applicable to the level of care necessary for the patients served, and in addition shall comply with the following provisions (specifics regarding standards of care for both mothers and neonates as well as support services to be provided shall be defined in the hospital's letter of agreement with its their Perinatal Center):

a) General Provisions

1) A plan for early identification of high risk maternity and neonatal patients which includes agreements for consultation with the Perinatal Center shall be instituted. This agreement shall cover high risk pregnant women and those neonates born with a developmental disability or handicapping condition which threatens life or has the potential for a developmental disability and shall also include plans for prompt consultation with a Level III or Perinatal Center in these cases of maternity or neonatal complications. Such consultation shall occur upon the identification of the complications by the attending physician. The Maternity and Neonatal Service Plan of the Level I facility shall include a letter of agreement between the facility and its Perinatal Center regarding plans for prompt consultation with a maternal-fetal medicine subspecialist or neonatologist specific to high-risk women and those neonates with 7 conditions indicate transfer plans and agreements for managing acute surgical and cardiac difficulties, for managing those neonates born with handicapping conditions, for managing high-risk pregnancies, for genetic counseling and for information, referral and counseling services for families of neonates born

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with a handicapping condition or for a high-risk mother or her spouse, and for continuing education of staff in perinatal care conditions. (Section 640.70 describes the minimum components for the letter of agreement.) This agreement must include participation in a Continuous Quality Improvement program as defined by the Department and as designed and implemented by the Perinatal Center.

- 2) The critical considerations in the care of patients anticipating delivery in these hospitals are as follows:

A) the earliest possible detection of the high-risk pregnancy (risk assessment) and consultation with a maternal-fetal medicine subspecialist or neonatologist as specified in the letter of agreement ~~Level-III-or-Perinatal-Center~~, and ~~possible transfer to the appropriate level of care; a-level-III-Perinatal-Center~~ and

B) the availability of trained personnel and facilities to provide competent emergency obstetric and newborn care. Included in the functions of this facility are the stabilization of patients with unexpected problems, initiation of neonatal and maternal transports, patient and community education, and data collection and evaluation.

- 3) A system of recording patient admissions, discharges, birth weight, outcome, complications, and transports must be maintained and meet the requirements to support network Continuous Quality Improvement activities as developed by the Statewide Quality Council and must be consistent with that of the Perinatal Center. The hospital shall comply with the reporting requirements of the Adverse Pregnancy Outcomes Reporting System (77 Ill. Adm. Code 840).

b) Level I - Standards for Maternal Care

1) The maternal patient with an uncomplicated current pregnancy and no previous history suggestive of potential difficulties is considered appropriate for Level I facilities.

- 2) All maternal patients other than those identified in subsection 640-4(b)(1) above constitute potentially high-risk conditions for which ~~Level-III-or-Perinatal-Center~~ consultation with a maternal-fetal medicine subspecialist or neonatologist as specified in the letter of agreement ~~by the attending physician~~ is recommended. ~~The level-2-facilities letter-of-agreement with its-Perinatal-Center-shall-specifically-identify-whether treatment-consultation~~ Consultation or transfer shall be considered ~~will-be-done~~ for each of the following conditions:

- A) Previous Pregnancy Problems:
 i) Premature infant
 ii) Perinatal death or mental retardation
 iii) Isoimmunization
 iv) Difficult deliveries

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- v) Congenital malformations
 vi) Mid-trimester loss

B) Current Pregnancy Problems:

- i) Any medical disorder (e.g., diabetes, ~~Diabetes~~ mellitus, hemoglobinopathy, chronic hypertension, heart disease, renal disease)
 ii) Drug addiction
 iii) Multiple gestation
 iv) Intrauterine growth restriction ~~retardation~~
 v) Preterm labor less than or equal to 36 weeks
 vi) Postdate greater than or equal to 42 weeks
 vii) Third trimester bleeding
 viii) Abnormal genetic evaluation
 ix) Pregnancy induced hypertension

c) Level I - Standards for Neonatal Care

- 1) The neonatal patients greater than 36 weeks gestation or greater than 2500 grams without risk factors and infants with physiologic jaundice are generally considered appropriate for Level I facilities; however, the facilities' letter of agreement must establish the specific conditions for Level I facilities.

2) All neonatal patients other than those identified in subsection (c)(1) above constitute neonatal conditions for which ~~a neonatology level-III-or-Perinatal-Center~~ consultation ~~as specified in the letter of agreement by the attending physician~~ is recommended. Consultation ~~the level-1-facilities letter-of agreement-with-its-Perinatal-Center-shall-specifically-identify-whether treatment-consultation~~ or transfer is recommended ~~will be-done~~ for each of the following conditions:

- A) Gestational age ~~gestation~~ less than or equal to 36 weeks, birth weight less than or equal to 2500 grams
 B) Small-for-gestational age (less than 10th percentile)
 C) Sepsis
 D) Seizures
 E) Congenital heart disease
 F) Multiple congenital anomalies
 G) Apnea
 H) Respiratory distress
 I) Neonatal asphyxia
 J) Infants identified as having handicapping conditions or developmental disabilities which threaten life or subsequent development
 K) Severe anemia
 L) Hyperbilirubinemia, not due to physiologic cause
 M) Polycythemia

N) Specifics must be detailed in the letter of agreement.

- 3) Consultation-and-transfer-to-a-level-III-or-Perinatal-Center shall occur for the following conditions:

A) Premature-labor-or-premature-birth-less-than-34-weeks

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gestation:

- 4) A system of recording patient admissions, discharges, birth weight, outcome, complications, and transports must be maintained and be consistent with that of the Perinatal Center. The hospital shall comply with the reporting requirements of the Adverse Pregnancy Outcomes Reporting System (AP-ORS) (77 Ill. Adm. Code 8407).

d) Level I - Resource Requirements Support Services

The following support services shall be available:

- 1) Capability for continuous electronic maternal-fetal monitoring for patients identified at risk with staff knowledgeable in its use and interpretation available at all times with evidence of completion of a yearly competence assessment in electronic fetal monitoring.
- 2) Blood bank technicians on call and available within 30 minutes for performance of routine blood banking procedures.
- 3) General anesthesia on call and available within 30 minutes to initiate caesarean sections.
- 4) Caesarean section capability within 30 minutes.
- 5) Radiology service available within 30 minutes notice.
- 6) Clinical laboratory shall include microtechnique for hematology within 15 minutes, glucose, BUN, creatinine, blood gases, routine urinalysis in 1 hour; CBC, routine blood chemistries, type, cross, Coombs' test, and bacterial smear within 6 hours; and capability for bacterial culture and sensitivity and viral culture.

- 7) A physician for the program shall be designated to assume primary responsibility for initiating, supervising and reviewing the plan for management of depressed infants in the delivery room. Policies and procedures shall assign responsibility. Responsibility for identification and resuscitation of distressed neonates shall be assigned to at least one individual who is both specifically trained and immediately available in the hospital at all times, such as another physician, a nurse with training and experience in neonatal resuscitation, or a licensed respiratory care practitioner in labor and delivery or respiratory therapist. Individuals assigned qualified to perform neonatal resuscitation shall have documented evidence of current completion of a neonatal resuscitation course. It is further recommended that physicians and/or advanced practice nurses who care for newborns have documented evidence of completion of a neonatal resuscitation course. Include the following skills:

- A) Skills in rapid and accurate evaluation of the newborn condition, including Apgar scoring.
- B) Knowledge of pathogenesis and causes of a low Apgar score (hypoxia, drug, hypovolemia, trauma, anomalies, infection), as well as specific indications for

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resuscitation:

- e) Skills in airway management, artificial ventilation, suctioning of airway, cardiac massage and maintenance of thermal stability, in addition to skills in laryngoscopy, endotracheal intubation, biochemical resuscitation, and decompression of tension pneumothorax by needle aspiration under standing orders of a licensed physician.
- 8) The Level I facility shall be responsible for provision of continuing education for medical nursing, respiratory therapy, and other staff providing general perinatal services with evidence of a yearly competence assessment appropriate to the patient population served. Continuous electronic maternal-fetal monitoring and staff knowledgeable in its use and interpretation shall be available 24 hours.

e) Exceptions to Level I Standards of Care

- 1) Exceptions to the standards of care set forth in this Part may be necessary based on patient care needs, current practice, outcomes, and geography in the regional perinatal network. These exceptions are not intended to circumvent the Level II designation. The applicant facility or the Perinatal Center may seek the advice and consultation of the Department as well as the Perinatal Advisory Committee in regard to the conditions necessary for an exception.
- 2) Exceptions to the standards of care of this Part may be granted when the facility requesting an exception demonstrates that the resources, staffing, equipment and quality of care (outcomes) are substantially equivalent to the resources, standards and quality of care for any Level II or Level III facility in their regional Perinatal Network. The resource requirements for these facilities may be found in Section 640.42(d) for Level II facilities. The proposed exceptions shall be determined by the applicant facility and its Perinatal Center based primarily on outcomes.
- 3) Such exceptions shall be negotiated between the applicant facility and the Perinatal Center. The applicant facility or the Perinatal Center may seek the advice and consultation of the Department, as well as the Perinatal Advisory Committee, to facilitate negotiations regarding exceptions to these standards of care. Any exception to the standards of care of this Part must be defined in the letter of agreement. If the applicant facility and its Perinatal Center cannot reach agreement on any aspect of the exceptions to the standards of care of this Part, the applicant facility or Perinatal Center should seek the advice and consultation of the Perinatal Advisory Committee (i.e., subcommittee on facility designation). Any exception to the standards of care of this Part shall be clearly defined in the proposed letter of agreement and approved by the Department before implementing the exceptions or patient care services being

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requested. The Department may permit a period of testing or trial (probation) to demonstrate that the applicant facility's resources and quality of care (outcomes) are substantially equivalent to the resources and quality of care for any Level II facility.

- 4) e---Department---shall---review---all---letters-of-agreement---and modification-of-letters-of-agreement-prior-to-implementation---the Department-shall-use-the-criteria-described-in-subsection-(f)(2) of--this-Section--in--order--to--approve-or-deny-approval-of-any provision-of-or-any-letter-of-agreement--if a dispute between the applicant facility and its Perinatal Center cannot be resolved after consultation with the Perinatal Advisory Committee (i.e., subcommittee on facility designation), then the applicant facility, the Perinatal Center, or the Perinatal Advisory Committee may submit the dispute to the Department for settlement. The Department shall review all of the relevant information and documentation that clearly substantiates the facility's compliance with particular provisions or standards of perinatal care and the recommendations of the Perinatal Advisory Committee in deciding or settling a dispute. The Department shall inform the applicant facility, the Perinatal Center, and the Perinatal Advisory Committee of its decision or judgment. The following information shall be submitted to the Perinatal Advisory Committee (i.e., subcommittee on facility designation) to facilitate the review of the applicant facility's application for designation with exceptions to the standards of care of this Part:

- 5) A) A proposed letter of agreement (unsigned).
 B) The curriculum vitae for all directors of patient care, i.e., OB, neonatal, nursing (OB and neonatal).
 C) Appendices A and B (fully completed).
 D) A letter from the Perinatal Center that includes the following information:
 i) List of the exceptions being requested.
 ii) Sufficient data/information to demonstrate that the quality of care (outcomes) of the applicant facility are substantially equivalent to the appropriate standards as outlined in subsection (c) of this Section.
 iii) A description of the monitoring system used when a consultation occurs between the attending physician at the referring hospital and the physician consultant at the Perinatal Center and the physician consultant at the Perinatal Center or Level III facility and it is determined that the mother or newborn infant should stay in the community hospital for care.
 iv) A description of any arrangements made between the applicant facility and the Perinatal Center to seek or insure quality improvement.

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- 6) When the information described in Section 640.41(e) is submitted to the Perinatal Advisory Committee, it shall review the material for compliance with the Regionalized Perinatal Health Care Code, and shall make a recommendation for approval or disapproval of the applicant facility's application for designation with exceptions to the Department.

- 7) The medical co-directors of the Perinatal Center (or their designees) and the medical directors of obstetrics and maternal and newborn care and a representative of hospital administration from the applicant facility shall be present during the Perinatal Advisory Committee's review of the applicant facility's application for designation with exceptions.

- 8) The Department shall review the submitted materials and any other documentation that clearly substantiates the facility's compliance with particular provisions or standards of perinatal care, including quality of care (outcomes) data/information and the recommendation of the Perinatal Advisory Committee, and shall make a recommendation to the Director of Public Health concerning the approval or disapproval of the applicant facility's application for designation with exceptions.

- 9) The Director of Public Health shall make the final decision and inform the facility of the official determination regarding designation with exceptions to the standards of care of this Part. The Director's decision shall be based upon the recommendation of the Perinatal Advisory Committee and the facility's compliance with the Regionalized Perinatal Health Care Code, and may be appealed in accordance with Section 640.45. The Director of Public Health shall consider the following criteria or standards to determine if a facility is in compliance with the Code:

- A) Maternity and Neonatal Service Plan (Subpart O of the Illinois Hospital Licensing Requirements).
 B) Proposed letter of agreement between the applicant facility and its Perinatal Center in accordance with the provisions described in Section 640.70.
 C) Appropriate outcome information contained in Appendices A and B.
 D) Other documentation that clearly substantiates a facility's compliance with particular provisions or standards of perinatal care.
 E) Recommendation of Department program staff.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 640.42 Level II and Level II with Extended Capabilities - Standards for Perinatal Care

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Level II: To be designated as Level II or Level II with extended capabilities, a facility shall apply to the Department as described in Section 640.60 of this Part and comply with all the conditions described in Subpart O of the Hospital Licensing Requirements (77 Ill. Adm. Code 250) promulgated by the Department which are applicable to the level of care necessary for the patients served, and in addition shall comply with the following provisions (specifying regarding standards of care for both mothers and neonates as well as resource requirements support-services to be provided shall be defined in the hospital's letter of agreement with its ~~their~~ Perinatal Center):

- a) General Provisions
 - 1) A Level II or Level II with extended capabilities facility is to provide all services outlined for Level I (Section 640.41(a)) as well as diagnosis and treatment of selected high-risk pregnancies and neonatal problems. Both the obstetrical service and the neonatal service must achieve the applicable capability of a Level II ~~capability~~ or Level II with extended capabilities facility for the applicable Level II designation. Further standards for Level II facilities are set out in subsections (b) through (h) with subsections (f) through (h) specifically applying to facilities that are Level II with extended capabilities. Included in the functions of this facility are education of allied health professionals and acceptance of selected maternal-fetal and neonatal transports from Level I or other Level II hospitals ~~after consultation with the Perinatal Center as identified in the Level-II facilities' letters of agreement with the Perinatal Center~~. The letters of agreement should include participation in a Continuous Quality Improvement program as defined by the Department and implemented by the Perinatal Center.
 - 2) A system for recording patient admissions, discharges, birth weight, outcome, complications, and transports must be maintained and must meet requirements to support network Continuous Quality Improvement program activities as developed by the Statewide Quality Council ~~should be consistent with that of the Perinatal Center~~. The hospital must comply with the requirements of the Adverse Pregnancy Outcomes Reporting System (77 Ill. Adm. Code 840). For hospitals designated Level II with extended capabilities, participation in the Perinatal Reporting System is also required.
- b) Level II - Standards for Maternal Care
 - 1) The following maternal patients are considered to be appropriate for management and delivery by the primary physician at Level II facilities without requirement for a maternal-fetal medicine consultation:
 - A) Those listed for Level I (see see Section 640.41(b)(1));
 - B) Normal current pregnancy although obstetric previous history may be suggestive of potential difficulties;
 - C) Selected medical conditions controlled with medical

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- treatment such as: mild chronic hypertension, thyroid disease, illicit drug use, urinary tract infection, and non-systemic steroid dependent reactive airway disease;
- D) Selected obstetric complications that present after 32 weeks gestation, such as: mild pre-eclampsia/pregnancy induced hypertension, placenta previa, abruptio placenta, premature rupture of membranes or premature labor greater than 34 weeks;
 - E) Other selected obstetric conditions that do not adversely affect maternal health or fetal well-being, such as: normal twin gestation, hyperemesis gravidarum, suspected fetal macrosomia, or incompetent cervical os;
 - F) Gestational diabetes Brahetes, Class A1 (White's criteria).
- 2) For the following maternal conditions, Level-II or Perinatal Center consultation with a maternal-fetal medicine subspecialist as detailed in the letters of agreement with subsequent management and delivery at the appropriate facility as determined by mutual collaboration by the attending physician is recommended.
- A) Current obstetric history suggestive of potential difficulties such as: intrauterine growth restriction, prior neonatal death, two or more previous preterm deliveries less than 34 weeks, birth of a neonate with serious complications resulting in a handicapping condition, recurrent spontaneous abortion or fetal demise, family history of genetic disease.
 - B) Active chronic medical problems with known increase in perinatal mortality, such as: cardiovascular disease Class I and Class II, autoimmune disease, reactive airway disease requiring treatment with systemic corticosteroids, seizure disorder, controlled hyperthyroidism on replacement therapy, hypertension controlled on a single medication, idiopathic thrombocytopenia purpura, thrombembolic disease, malignant disease (especially when active), renal disease with functional impairment, human immunodeficiency viral infection (consultation may be with maternal-fetal medicine or infectious disease subspecialist);
 - C) Selected obstetric complications that present prior to 34 weeks gestation, such as: suspected intrauterine growth restriction, polyhydramnios, oligohydramnios, pre-eclampsia/pregnancy-induced hypertension, congenital viral disease, maternal surgical conditions, suspected fetal abnormality or anomaly, isoimmunization with antibody titers greater than 1:8, antiphospholipid syndrome;
 - D) Abnormalities of the reproductive tract known to be associated with an increase in preterm delivery, such as uterine anomalies or diethylstilbestrol exposure;
 - E) Insulin dependent diabetes Class A2 and B or greater

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(White's criteria).

- 3) For the following maternal conditions, referral to a maternal-fetal medicine subspecialist for evaluation shall occur. Subsequent patient management and site of delivery shall be determined by mutual collaboration between the patient's physician and the maternal-fetal medicine subspecialist:

A) Selected chronic medical conditions with a known increase in perinatal mortality, such as: cardiovascular disease with functional impairment (Class III or greater), respiratory failure requiring mechanical ventilation, acute coagulopathy, intractable seizures, coma, sepsis, solid organ transplantation, active autoimmune disease requiring corticosteroid treatment, unstable reactive airway disease, renal disease requiring dialysis or with a serum creatinine concentration greater than 1.5 mg/dl, active hyperthyroidism, hypertension that is unstable or requires more than one medication to control, severe hemoglobinopathy.

B) Selected obstetric complications that present prior to 32 weeks gestation (prior to 30 weeks gestation for Level II with more than two fetuses, twin gestation complicated by demise, discordancy, or maldevelopment of one fetus or by fetal-fetal transfusion), premature labor unresponsive to first-line tocolytics, premature rupture of membranes, medical and obstetrical complications of pregnancy possibly requiring induction of labor or non-emergent cesarean section for maternal or fetal indications, such as severe pre-eclampsia;

C) Isoimmunization with possible need for intrauterine transfusion;

D) Insulin-dependent diabetes mellitus Classes C, D, F, or H (White's criteria);

E) Suspected congenital anomaly or abnormality requiring an invasive fetal procedure, neonatal surgery or postnatal medical intervention to preserve life, such as: fetal hydrops, pleural effusion, ascites, persistent fetal arrhythmia, major organ system malformation-malfunction, or genetic condition.

The level is specifically letter-of-agreement-with-its-Perinatal Center-shall-specifically-identify-whether-treatment-consultation-or transfer-will-be-done-for-each-of-the-following:

A) Patients-for-consultations-(possible-later-transfer)-with maternal-fetal-medicine-consultant:

- i) Essential-hypertension-on-medications;
- ii) Chronic-renal-disease;
- iii) Other-chronic-medical-problems-with-known-increase-in Perinatal-mortality;
- iv) Prior-birth-of-a- neonate-with-serious-complications

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resulting-in-a-handicapping-condition;

- v) Anomalities-of-the-reproductive-tract-known-to-be associated-with-an-increase-in-preterm-delivery;
- vi) Insulin-dependent-diabetes-Class-B-or-greater.

B) For-the-following-maternal-conditions-maternal-transfer-for prenatel-care-is-recommended:

- i) Patients-from-the-above-consultation-list-which-are deemed-advisable-by-mutual-collaboration-between-the maternal-fetal-medicine-attending-at-a-level-iii facility-and-obstetrician-at-referring-office-or hospital;
- ii) Isoimmunization-with-possible-need-for-intrauterine transfusion;
- iii) Suspected-congenital-anomaly-compatible-with-liver

iv) Insulin-dependent-diabetes-mellitus;

v) Cardio-pulmonary-disease-with-functional-impairment;

vi) Multiple-gestation-with-exception-of-twins;

vii) Premature-labor-prior-to-32-weeks;

viii) Premature-rupture-of-membranes-prior-to-32-weeks;

ix) Medical-and-obstetrical-complications-of-pregnancy possibly-requiring-induction-or-caesarean-section-for maternal-or-fetal-conditions-prior-to-32-weeks;

x) Severe-pre-eclampsia-or-eclampsia.

c) Level II - Standards for Neonatal Care

1) The following neonatal patients are considered appropriate for consultation:

A) Those listed for Level I. (See Section 640.41(b)(1).)

B) Mild to moderate respiratory distress (not requiring mechanical ventilation in excess of 6 hours).

C) Suspected neonatal sepsis, hypoglycemia responsive to glucose infusion, and asymptomatic neonates of diabetic mothers---and---post-asphyxia---without---life-threatening sequelae.

D) Nursery care of premature infants (with a birth weight greater than 1500 gms) who are otherwise well.

E) Nursery care of premature infants at 32 or more weeks gestation who are otherwise well.

2) For the following neonatal conditions, neonatology level-iii-or Perinatal-Center consultation by-the-attending-physician is recommended, as detailed in the letter of agreement,---the-level is---specifically-identify-whether-treatment-with-its-Perinatal-Center shall-specifically-identify-whether-treatment-consultation-or transfer-will-be-done for each of the following:

A) Premature birth with gestation less than 32 weeks, but greater than or equal to 30 weeks or less than 1400-grams;

B) Infants with a birth weight less than 1500 grams, but greater than 1250 grams sepsis-unresponsive-to-therapy;

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- C) Infants with 10 minute Apgar scores of 5 or less uncontrolled-seizures.
- D) Stable infants identified as having handicapping conditions or developmental disabilities that threaten subsequent development. Significant congenital-heart-disease.
- E) Major congenital-malformations-requiring-surgery.
- F) Infants-requiring-ventilation-after-initial-stabilization (greater-than-6-hours).
- G) Infants-with-oxygen-requirement-in-excess-of--50%-(greater than-6-hours).
- H) Infants-with-ten-minute-Apgar-scores-of-5-or-less.
- I) All-patients-requiring-major-surgery.
- J) Infants-requiring-exchange-transfusion.
- K) Persistent-metabolic--derangement--(e-g--hypocalcemia hypoglycemia-metabolic-acidosis).
- L) Infants-identified-as-having-handicapping-conditions-or developmental-disabilities-which-threaten-life-or-subsequent development.
- 3) Consultation and Transfer to a Level III--or--Perinatal--Center shall occur upon recommendation of the Perinatal Center for each of the following neonatal conditions:
- A) Premature labor-or-premature birth that is less than 30 32 weeks gestation.
- B) Birthweight less than or equal to 1250 grams.
- C) Infants requiring mechanical ~~Mechanent~~ ventilation beyond the initial stabilization period of 6 hours.
- D) Infants who require a sustained inhaled oxygen concentration in excess of 50% in order to maintain a transcutaneous or arterial oxygen saturation greater than or equal to 92%.
- E) Infants with significant congenital heart disease associated with cyanosis, congestive heart failure, or impaired peripheral blood flow.
- F) Infants with major congenital malformations requiring immediate comprehensive evaluation or neonatal surgery.
- G) Infants requiring neonatal surgery with general anesthesia.
- H) Infants with sepsis unresponsive to therapy associated with persistent shock or other organ system failure.
- I) Infants with uncontrolled seizures.
- J) Infants with stupor, coma, hypoxic ischemic encephalopathy Stage II or greater.
- K) Infants requiring double-volume exchange transfusion.
- L) Infants with metabolic derangement persisting after initial correction therapy.
- M) Infants identified as having handicapping conditions that threaten life for which transfer can improve outcome.
- d) Level II - Resource Requirements Support-Services
Resources Support-services shall include all those listed for Level I (Section 640.41(d)) 640-40-(a)(4) as well as the following:

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- 1) Experienced blood bank technicians immediately available in hospital for blood banking procedures and identification of irregular antibodies. Blood component therapy readily available.
- 2) Experienced radiology technicians immediately available in the hospital with professional interpretation available 24 hours a day. Ultrasound capability available 24 hours a day everyday. In addition, level I ultrasound and staff knowledgeable in its use and interpretation shall be available 24 hours a day.
- 3) Clinical laboratory shall include microtechnique blood gases in 15 minutes, electrolytes and coagulation studies within an hour. Personnel skilled in phlebotomy and I.V. placement in the newborn shall be available 24 hours a day.
- 4) Social work services provided by one a licensed medical social worker, preferably with relevant experience and responsibility for perinatal patients, shall be available through the hospital social work department.
- 5) Protocols for discharge planning, routine follow-up care, and developmental follow-up must be established.
- 6) General anesthesia on call available within 30 minutes to initiate caesarean section.
- 7) A licensed respiratory care practitioner Respiratory-therapy with experience in neonatal care shall be available.
- 8) One registered dietitian with experience in perinatal nutrition shall be available to plan diets to meet the needs of mothers and infants.
- 9) Continuous electronic maternal-fetal monitoring and staff knowledgeable in its use and interpretation, with evidence of completion of a yearly competence assessment in electronic fetal monitoring, shall be available 24 hours a day. In-addition level-4-ultrasound-and-staff-knowledgeable-in-its-use-and interpretation-shall-be-available-on-a-24-hour-basis.
- 10) The Level II facility shall be responsible for provision of continuing education for medical, nursing, respiratory therapy and other staff providing general perinatal services with evidence of a yearly competence assessment appropriate to the patient population served.
- 11) a) A physician for the program shall be designated to assume primary responsibility for initiating, supervising and reviewing the plan for management of depressed infants in the delivery room. Policies and procedures shall assign responsibility for identification and resuscitation of distressed neonates to an individual who is both specifically trained and available in the hospital at all times, such as another physician, a nurse with training and experience in perinatal care, or respiratory therapist. Individuals assigned to perform neonatal resuscitation shall have documented evidence of current completion of a neonatal resuscitation course. It is further recommended that physicians and/or advanced practice nurses who

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care for newborns have documented evidence of a neonatal resuscitation course.

- e) Exceptions to Level II - Standards of Care
 - 1) Exceptions to the standards of care set forth in this Part may be necessary based on patient care needs, current practice, outcomes, and geography in the regional perinatal network. These exceptions are not intended to circumvent the Level II with extended capabilities designation. The applicant facility or the Perinatal Center may seek the advice and consultation of the Department as well as the Perinatal Advisory Committee in regard to the conditions necessary for an exception.
 - 2) Exceptions to the standards of care of this Part may be granted when the facility requesting an exception demonstrates that the resources ~~staffing, equipment and~~ quality of care (outcomes) are substantially equivalent to the resources ~~standards and~~ quality of care for any Level II facility with extended capabilities ~~Level III facility or Perinatal Center in their Regional Perinatal Network~~. The resource requirements for these exceptions may be found in subsection (d) of this Section for Level II with extended capabilities standards. The proposed exceptions shall be determined by the applicant facility and its Perinatal Center based primarily on outcomes.
 - 3) If the applicant facility and its Perinatal Center cannot reach agreement on any aspect of the exceptions to the standards of care of this Part, the applicant facility or Perinatal Center should seek the advice and consultation of the Perinatal Advisory Committee (i.e., subcommittee on facility designation). Any exception to the standards of care of this Part shall be clearly defined in the proposed letter of agreement and approved by the Department before implementing the exceptions or patient care services being requested. The Department may permit a period of testing or trial (probation). The Department may permit a period facility's resources and quality of care (outcomes) are substantially equivalent to the resources and quality of care for any Level II with extended capabilities facility. Such exceptions shall be negotiated between the applicant facility and their Perinatal Center. The applicant facility or the Perinatal Center may seek the advice and consultation of the Department as well as the Perinatal Advisory Committee to facilitate negotiations regarding exceptions to these standards of care. Any exception to the standards of care of this Part must be defined in the letter of agreement.
 - 4) If a dispute between the applicant facility and its Perinatal Center cannot be resolved after consultation with the Perinatal Advisory Committee (i.e., subcommittee on facility designation), then the applicant facility, the Perinatal Center or the Perinatal Advisory Committee may submit the dispute to the Department for settlement. The Department shall review all of the

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relevant information and documentation that clearly substantiates the facility's compliance with particular provisions of standards of perinatal care and the recommendations of the Perinatal Advisory Committee in deciding or settling a dispute. The Department shall inform the applicant facility, the Perinatal Center and the Perinatal Advisory Committee of its decision or judgment. ~~The Department shall review all letters of agreement and modification of letters of agreement prior to implementation. The Department shall use the criteria described in subsection (e)(2) of this Section in order to approve or deny approval of any provision of or any letter of agreement.~~

- 5) The following information shall be submitted to the Perinatal Advisory Committee (i.e., subcommittee on facility designation) to facilitate the review of the applicant facility's application for designation with exceptions to the standards of care of this Part:
 - A) A proposed letter of agreement (unsigned).
 - B) The curriculum vitae for all directors of patient care, i.e., OB, neonatal, nursing (OB and neonatal).
 - C) Appendices A and B (fully completed).
 - D) A letter from the Perinatal Center that includes the following information:
 - i) List of the exceptions being requested.
 - ii) Sufficient data/information to demonstrate that the quality of care (outcomes) of the applicant facility are substantially equivalent to the appropriate standards as outlined in subsection (c) of this Section.
 - iii) A description of the monitoring system used when a consultation occurs between the attending physician at the referring hospital and the physician consultant at the Perinatal Center or Level II facility and it is determined that the mother or newborn infant should stay in the community hospital for care.
 - iv) A description of any arrangements made between the applicant facility and the Perinatal Center to seek or insure quality improvement.
- 6) When the information described in subsection (e) is submitted to the Perinatal Advisory Committee, it shall review the material for compliance with the Regionalized Perinatal Health Care Code, and shall make a recommendation for approval or disapproval of the applicant facility's application for designation with exceptions to the Department.
- 7) The medical co-directors of the Perinatal Center (or their designees) and the medical directors of OB and neonatology and a representative of hospital administration from the applicant facility shall be present during the Perinatal Advisory

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Committee's review of the applicant facility's application for designation with exceptions.

- 8) The Department shall review the submitted materials and any other documentation that clearly substantiates the facility's compliance with particular provisions or standards of perinatal care, including quality of care (outcomes) information and the recommendation of the Perinatal Advisory Committee, and shall make a recommendation to the Director of Public Health concerning the approval or disapproval of the applicant facility's application for designation with exceptions.
- 9) The Director of Public Health shall make the final decision and inform the facility of the official determination regarding designation with exceptions to the standards of care of this Part. The Director's decision shall be based upon the recommendation of the Perinatal Advisory Committee and the facility's compliance with the Regionalized Perinatal Health Care Code, and may be appealed in accordance with Section 640.45. The Director of Public Health shall consider the following criteria or standards to determine if a facility is in compliance with the Code:

- A) Maternity and Neonatal Service Plan (Subpart 0 of the Illinois Hospital Licensing Requirements).
- B) Proposed letter of agreement between the applicant facility and its Perinatal Center in accordance with the provisions described in Section 640.70.
- C) Appropriate outcome information contained in Appendices A and B.
- D) Other documentation that clearly substantiates a facility's compliance with particular provisions or standards of perinatal care.
- E) Recommendation of Department program staff.
- F) Level II with Extended Capabilities - Standards for Neonatal Intensive Care Services

- 1) The following patients are considered appropriate for Level II with extended capabilities facilities with neonatal intensive care services:
 - A) Those listed in subsection (c) for Level II care;
 - B) Nursery care of low birth weight infants greater than 1250 grams;
 - C) Nursery care of premature infants 30 or more weeks gestation;
 - D) Infants on mechanical ventilation.

- 2) For each of the following neonatal conditions a consultation shall occur between the Level II with extended capabilities attending physician and the Perinatal Center or Level III neonatologist. It is expected that the attending neonatologist at the Level II with extended capabilities facility and the attending neonatologist at the Perinatal Center or Level III

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facility shall determine the most appropriate facility to continue patient care by mutual collaboration. The Level II facility with extended capabilities shall develop a prospective plan for patient care for those infants who remain at the Level II facility with extended capabilities. The plan shall include the following criteria that would trigger subsequent transfer to a Perinatal Center or Level III facility:

- A) Premature birth that is less than 30 weeks gestation;
 - B) Birth weight less than or equal to 1250 grams;
 - C) Infants with significant congenital heart disease associated with cyanosis, congestive heart failure, or impaired peripheral blood flow;
 - D) Infants with major congenital malformations requiring immediate comprehensive evaluation or neonatal surgery;
 - E) Infants requiring neonatal surgery with general anesthesia;
 - F) Infants with sepsis, unresponsive to therapy, associated with persistent shock or other organ system failure;
 - G) Infants with uncontrolled seizures;
 - H) Infants with stupor, coma, hypoxic ischemic encephalopathy Stage II or greater;
 - I) Infants requiring double-volume exchange transfusion;
 - J) Infants with metabolic derangement persisting after initial correction therapy;
 - K) Infants identified as having handicapping conditions that threaten life for which transfer can improve outcome.
- g) Level II with Extended Capabilities - Resource Requirements
- 1) Resources shall include all those listed in Section 640.41(d) for Level I care and in Section 640.42(d) for Level II care as well as the following:
 - A) Obstetric activities shall be directed and supervised by a board certified obstetrician or a subspecialty obstetrician certified by the American Board of Obstetrics and Gynecology in the subspecialty of maternal and fetal medicine or a licensed obstetrician physician with equivalent training and experience and certified by the American Osteopathic Board of Obstetricians and Gynecologists.
 - B) Neonatal activities shall be directed and supervised by a full-time pediatrician certified by the American Board of Pediatrics Sub-Board of Neonatal/Perinatal Medicine or a licensed osteopathic physician with equivalent training and experience and certified by the American Osteopathic Board of Pediatricians.
 - C) The directors of obstetric and neonatal services shall ensure the back-up supervision of their services when they are unavailable.
 - D) The obstetric-newborn nursing services shall be directed by a full-time nurse experienced in perinatal nursing preferably with a master's degree.

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- E) The pediatric-neonatal respiratory therapy services shall be directed by a full-time licensed respiratory care practitioner with at least 3 years experience in all aspects of pediatric and neonatal respiratory therapy, preferably with a bachelor's degree and one successful completion of the neonatal/pediatric specialty examination of the National Board for Respiratory Care.
- F) Preventive services designated to prevent, detect, diagnose and refer or treat conditions known to occur in the high risk newborn, such as: cerebral hemorrhage, visual defects (retinopathy of prematurity), and hearing loss, and to provide appropriate immunization of high-risk newborns.
- G) A designated person to coordinate the local health department community nursing follow-up referral process, to direct discharge planning, to make home care arrangements, to track discharged patients, and to collect outcome information. The community nursing referral process shall consist of notifying the high-risk infant follow-up nurse in whose jurisdiction the patient resides. The Department shall identify and update referral resources for the area served by the unit.
- H) Develop a referral agreement with a neonatal follow-up clinic to provide neuro-developmental assessment and outcome data on the neonatal population. Institutional policies and procedures will describe the at-risk population and referral procedures to be followed. Infants will be scheduled to be seen at regular intervals. Neurodevelopmental assessments will be communicated to the primary care physicians. Referrals will be made for interventional care in order to minimize neurologic sequelae. A system shall be established to track, record, and report neurodevelopmental outcome for the population, as required to support network CQI activities as developed by the Statewide Quality Council.
- I) If the Level II facility with extended capabilities transports patients, they must comply with the Level III transport resource requirements delineated in Section 640.43(c).
- 2) To provide for mechanical ventilation of newborn infants beyond immediate stabilization, the Level II facility with extended capabilities shall also provide:
- A) A physician or advanced practice nurse experienced in the management of mechanically ventilated infants present in the hospital during the entire time that the infant receives mechanical ventilation.
- B) Suitable back-up systems and planning to prevent and respond appropriately to sudden power outage, oxygen system failure, and interruption of medical grade compressed air delivery.
- C) Nurses caring for mechanically ventilated infants shall

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- have documented competence and experience in the care of mechanically ventilated infants.
- D) A licensed respiratory care practitioner with documented competence and experience in the care of mechanically ventilated infants must also be available to the nursery during the entire time that the infant receives mechanical ventilation.
- b) Exceptions to Level II with Extended Capabilities - Standards of Care
- 1) Exceptions to the standards of care set forth in this Part may be necessary based on patient care needs, current practice, outcomes and geography in the regional perinatal network. These exceptions are not intended to circumvent the Level III designation. The applicant facility or the Perinatal Center may seek the advice and consultation of the Department as well as the Perinatal Advisory Committee in regard to the conditions necessary for an exception.
 - 2) Facilities may request an exception to care for some subgroup of neonates listed in subsection (e)(2). The exceptions to the standards of care of this Part may be granted when the facility requesting an exception demonstrates that the resources and quality of care (outcomes) are substantially equivalent to the resources and quality of care for any Perinatal Center or Level III facility. The resource requirements for these exceptions may be found in Section 640.43(c) for Level III. The proposed exceptions shall be determined by the applicant facility and its Perinatal Center based primarily on outcomes.
 - 3) If the applicant facility and its Perinatal Center cannot reach agreement on any aspect of the exceptions to the standards of care of this Part, the applicant facility or Perinatal Center should seek the advice and consultation of the Perinatal Advisory Committee (i.e., subcommittee on facility designation) to settle the dispute. Any subcommittee on standards of care of this Part shall be clearly defined in the proposed letter of agreement and approved by the Department before implementing the exceptions or patient care services being requested. The Department may permit a period of testing or trial (probation) to demonstrate that the applicant facility's resources and quality of care (outcomes) are substantially equivalent to the resources and quality of care for any Perinatal Center or Level III facility.
 - 4) If a dispute between the applicant facility and its Perinatal Center cannot be resolved after consultation with the Perinatal Advisory Committee (i.e., subcommittee on facility designation), then the applicant facility, the Perinatal Center or the Perinatal Advisory Committee may submit the dispute to the Department for settlement. The Department shall review all of the relevant information and documentation that clearly substantiates the facility's compliance with particular provisions or standards of perinatal care and the recommendations of the Perinatal

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Advisory Committee in deciding or settling a dispute. The Department shall inform the applicant facility, the Perinatal Center and the Perinatal Advisory Committee of its decision or judgment.

- 5) The following information shall be submitted to the Perinatal Advisory Committee (i.e., subcommittee on facility designation) to facilitate the review of the applicant facility's application for designation with exceptions to the standards of care of this Part:

- A) A proposed letter of agreement (unsigned).
- B) The curriculum vitae for all directors of patient care, i.e., OB, neonatal, nursing (OB and neonatal).
- C) Appendices A and B (fully completed).
- D) A letter from the Perinatal Center that includes the following information:

- i) List of the exceptions being requested.
- ii) Sufficient information to demonstrate that the quality of care/outcomes of the applicant facility are substantially equivalent to the appropriate standards as outlined in subsection (c) of this Section.

- iii) A description of the monitoring system used when a consultation occurs between the attending physician at the referring hospital and the physician consultant at the Perinatal Center or Level III facility and it is determined that the mother or newborn infant should stay in the community hospital for care.

- iv) A description of any arrangements made between the applicant facility and the Perinatal Center to seek or insure quality improvement.

- 6) When the information described in subsection (e) is submitted to the Perinatal Advisory Committee, it shall review the material for compliance with the Regionalized Perinatal Health Care Code, and shall make a recommendation for approval or disapproval of the applicant facility's application for designation with exceptions to the Department.

- 7) The medical co-directors of the Perinatal Center (or their designees) and the medical directors of OB and neonatology and a representative of hospital administration from the applicant facility shall be present during the Perinatal Advisory Committee's review of the applicant facility's application for designation with exceptions.

- 8) The Department shall review the submitted materials and any other information that clearly substantiates the facility's compliance with particular provisions or standards of perinatal care, including quality of care (outcomes) information, and shall make a recommendation to the Perinatal Advisory Committee, and shall make a recommendation to the Director of Public Health concerning the approval or disapproval of the applicant facility's

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- 9) application for designation with exceptions.
- The Director of Public Health shall make the final decision and inform the facility of the official determination regarding designation with exceptions to the standards of care of this Part. The Director's decision shall be based upon the recommendation of the Perinatal Advisory Committee and the facility's compliance with the Regionalized Perinatal Health Care Code, and may be appealed in accordance with Section 640.45. The Director of Public Health shall consider the following criteria or standards to determine if a facility is in compliance with the Code:

- A) Maternity and Neonatal Service Plan (Subpart O of the Illinois Hospital Licensing Requirements).
- B) Proposed letter of agreement between the applicant facility and its Perinatal Center under the provisions described in Section 640.70.
- C) Appropriate outcome information contained in Appendices A and B.
- D) Other documentation that clearly substantiates a facility's compliance with particular provisions or standards of perinatal care.
- E) Recommendation of Department program staff.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 640.43 Level III - Standards for Perinatal Care

Level III: To be designated as Level III, a facility shall apply to the Department for designation, and shall comply with all of the conditions described for intensive (Level III) perinatal care of this Part and shall comply with all the conditions described in Subpart O of the Hospital Licensing Requirements (77 Ill. Adm. Code 250) promulgated by the Department which are applicable to the level of care necessary for the patients served, and in addition shall comply with the following provisions (specifics regarding standards of care for both mothers and neonates as well as resource requirements support-services to be provided shall be defined in the hospital's letter of agreement with their Perinatal Center):

a) General Provisions

- 1) A Level III facility shall provide all services outlined for Level I and II (Sections 640.41(a) 640.40(f) and 640.42(a)).
- Intermediate and intensive care as well as diagnosis and treatment of high-risk pregnancy and neonatal problems. Both the obstetrical and neonatal services must achieve Level III capability for Level III designation and must provide for the education of allied health professionals and acceptance of selected maternal-fetal and neonatal transports from Level I or II facilities after consultation with the Perinatal Center.

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2) The Level III facility shall make available a range of technical and subspecialty consultative support such as pediatric anesthesiology, ophthalmology, pediatric surgery, genetic services, intensive cardiac services and intensive neurosurgical services.

3) To qualify as a Level III facility, these standards and resource requirements are necessary to ensure adequate competence in the management of certain high-risk patients. These criteria will be assessed by reviewing the resources and outcomes of each facility's admissions, which admissions include patients who are subsequently transferred, for the 2 most recent calendar years combined for which data are available. The facility must demonstrate an adequate patient base to achieve an NICU average daily census to maintain the resources, expertise, and outcomes required.

4) A Level III facility that elects not to provide all of these services shall have established policies and procedures for transfer of these infants to a facility that can provide the service needed.

5) Perinatal outcome statistics for the Level III facility must be substantially equivalent to those of the Perinatal Center and other designated Level III facilities.

6) This agreement should include participation in a CQI program as defined by the Department and implemented by the Perinatal Center.

7) A system for recording patient admissions, discharges, birth weight, outcome, complications, and transports must be maintained and must meet requirements to support network CQI activities as developed by the Statewide Quality Council. The hospital must comply with the requirements of the Adverse Pregnancy Outcomes Reporting System (77 Ill. Adm. Code 840).

b) Level III - Standards of Care

The Level III facility shall have a policy requiring general obstetricians and newborn care physicians to obtain consultations from or transfer care to the appropriate subspecialists as outlined in the standards for Level II.

1) 90--qualify-as-a-level-iii-facility-the-following-minimum-criteria are necessary to ensure adequate competence in the management of certain high-risk patients--these criteria will be assessed by reviewing each hospital's number of admissions, which include patients that are subsequently transferred, for the two most recent calendar years combined, for which data are available

2) 90--care-for--premature-birth--greater-than-or-equal-to-34-weeks-gestation--the facility--must--demonstrate--that-its-annual-number-of-admissions which have led to premature birth and which include such patients that are subsequently transferred, exceeds 20 based on the number of admissions for the two most recent--calendar--years--combined

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for-which-data-are-available-

3) 90--care-for-infants-with-a-birth-weight-greater-than-or-equal-to 500-grams-and-less-than-or-equal-to-1250-grams--the-facility-must demonstrate-that-its-annual-number-of-such-admissions--which include-patients-that-are-subsequently-transferred--exceeds-20 based-on-the-number-of-admissions-for-the-two-most-recent calendar-years-combined--for-which-data-are-available-

4) 90--provide--for-mechanical-ventilation-beyond-the-initial stabilization-period-(6-hours)--the-facility-must-demonstrate that-its-annual-number-of-neonatal-mechanical-ventilation-days exceeds-433-based-on-the-number-of-admissions-for-the-two-most recent-calendar-years-combined--for-which-data-are-available-

c) Level III - Resource Requirements Support Services

1) The Level III facility shall be responsible for provision of a program of continuing education for medical, nursing, respiratory therapy, and other staff providing general, and intermediate, and intensive care perinatal services with evidence of a yearly competence assessment appropriate to the patient population served.

2) The Level III facility shall accept all medically eligible Illinois residents. Medical eligibility is to be determined by the obstetrical or neonatal director or his/her designee based on the Department's standards for "Criteria for High-Risk Identification (Guidelines for Perinatal Care, American Academy of Pediatrics and American College of Obstetricians and Gynecologists)." If the facility is unable to accept the patient referred, the unit shall arrange for admission to another Level III facility or appropriate Level II facility.

3) The Level III facility shall provide or arrange emergency transportation of patients referred to the unit in accordance with guidelines for interhospital care of the perinatal patient (Guidelines for Perinatal Care, American Academy of Pediatrics and American College of Obstetricians and Gynecologists). Decisions relating to transportation shall be made by the appropriate neonatal or obstetric medical director or his/her designee. The director shall determine:

A) When to dispatch transportation from the facility or to use transportation facilities from the referring hospital;

B) When to use ground or air transportation;

C) The kind of vehicle to be used;

D) The staff who should accompany the patient (nurse, house staff, attending physician, respiratory therapist, or other related personnel) assuring that the staff selected is trained and prepared in emergency obstetrics or neonatology. The facility shall provide any staff attendants required to transport the patient when the trip is dispatched from the facility. Upon arrival at the referring hospital, the transporting staff attendant(s) shall become responsible for

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the case-of-the-patient:

- E) Whether transportation can be delayed;
 - F) Priorities of need;
 - G) Recommendations for support care to stabilize the patient until transport.
- 4) Medical director-neonatal: approval-of-all-neonatal-admission to direct the neonatal portion of the program by--the-director-of neonatal-services-who-shall-possess-qualifications-of-Section 640-40. Neonatal activities shall be directed and supervised by a full-time pediatrician certified by the American Board of Pediatrics Sub-Board of Neonatal/Perinatal Medicine or a licensed osteopathic physician with equivalent training and experience and certified by the American Osteopathic Board of Pediatricians/Neonatal-Perinatal Medicine. The directors of the neonatal services shall ensure the back-up supervision of their services when they are unavailable.
 - 5) Medical director-obstetrics: approval-of-all-maternal-admissions to direct the obstetric portion of the program by--the-chief-of obstetric-services-who-shall-possess-the-qualifications-of Section-640-40. Level III obstetric activities shall be directed and supervised by a full-time subspecialty obstetrician certified by the American Board of Obstetrics and Gynecology in the subspecialty of Maternal and Fetal Medicine or a licensed osteopathic physician with equivalent training and experience and certified by the American Osteopathic Board of Obstetricians and Gynecologists. Obstetric anesthesia services under the direct supervision of a board certified anesthesiologist with training in maternal, fetal and neonatal anesthesia shall be available 24 hours a day. The directors of the obstetric services shall ensure the back-up supervision of their services when they are unavailable.
 - 6) An Administrative-director--the-services-of-a-health-services administrator/manager with a master's degree, to direct, in collaboration with the medical directors, the planning, development and operations of the non-medical aspects of the Level III facility and its programs and services.
 - 7) Continuing education for health professionals.
 - 8) Reporting program information: the Level III facility shall provide data relating to its activities and report information as required by the Department. Admission data, mortality, morbidity and other required data shall be reported on all admissions to this unit. This will include full compliance with the Adverse Pregnancy Outcomes Reporting System and the Perinatal Tracking System.
 - 9) The Level III facility shall have a clearly identifiable telephone and facsimile number, either a special number or a specific extension answered by unit personnel for receiving consultation requests and requests request for admissions. This

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number shall be kept current with the Department and with the regional perinatal network.

- 10) The medical co-directors of the Perinatal Center shall be responsible for developing a system ensuring adequate physician-to-physician communications. Communications with referring physicians of patients admitted shall be sufficient to report patient progress before and at time of discharge.
- 11) Continuous electronic maternal-fetal monitoring and staff knowledgeable in its use and interpretation shall be available 24 hours a day. In addition, the Level III facility Perinatal-Center shall provide appropriate level-ii ultrasound available on the OB floor.
- 12) The Level III facility shall designate at least one person to coordinate the community nursing follow-up referral process, to direct discharge planning, to make home care arrangements, to track discharged patients, to ensure appropriate enrollment in a developmental follow-up program, and to collect outcome information. The community nursing referral process shall consist of notifying the follow-up nurse, in whose jurisdiction the patient resides, of discharge information on all patients. The Department shall identify and update referral resources for the area served by the unit.
- 13) The Level III facility shall establish policies and procedures for the referral or transport of high-risk mothers and infants who require specialized care or services not currently available at the level III facility to the appropriate facility that can provide the service needed.
- 14) The Level III facility shall establish policies and procedures for the return transfer of high-risk mothers and infants to the referring facility when they no longer require the specialized care and services of the Level III facility.
- 15) The pediatric-neonatal respiratory therapy services shall be directed by a full-time licensed respiratory care practitioner with at least three years experience in all aspects of pediatric and neonatal respiratory therapy, preferably with a bachelor's degree and one successful completion of the neonatal/pediatrics specialty examination of the National Board for Respiratory Care. A physician for the program shall be designated to assume primary responsibility for initiating, supervising and reviewing the plan for management of depressed infants in the delivery room. Policies and procedures shall assign responsibility for identification and resuscitation of distressed neonates to individuals who are both specifically trained and available in the hospital at all times, such as another physician, a nurse with training and experience in neonatal resuscitation or licensed respiratory care practitioner. Individuals assigned to perform neonatal resuscitation shall have documented evidence of current completion of a neonatal resuscitation course. It is

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further recommended that physicians and/or advanced practice nurses who care for newborns have documented evidence of completion of a neonatal resuscitation course.

- 17) To provide for mechanical ventilation of newborn infants beyond the immediate stabilization, a physician or advanced practice nurse experienced in the management of mechanically ventilated infants must be present in the hospital during the entire time that the infant receives mechanical ventilation. The Level III facility shall provide suitable backup systems and planning to prevent and respond appropriately to sudden power outage, oxygen system failure, and interruption of medical grade compressed air delivery.

- 18) To care for the high risk pregnancy and for resulting infants whose birth weight is less than 1250 grams or whose gestational age is less than 30 weeks, the Level III facility shall have the perinatal leadership detailed above as well as the following resources:

A) A board certified or active candidate obstetrician shall be present and available in-house, 24 hours a day. Maternal fetal medicine consultation must be available 24 hours a day. Obstetric anesthesia services under the direct supervision of a board certified anesthesiologist with extensive training or experience in maternal, fetal and neonatal anesthesia shall be available 24 hours a day.

B) Preventive services designated to prevent, detect, diagnose and treat conditions known to occur in the high-risk newborn, such as: cerebral hemorrhage, visual defects (retinopathy of prematurity), and hearing loss, and to provide appropriate immunization of high-risk newborns.

C) A board certified or active candidate ophthalmologist with experience in the diagnosis and treatment of the visual problems of high-risk newborns (retinopathy of prematurity) shall be available to the nursery for appropriate examinations, treatment and follow-up care of high risk newborns.

D) Neonatal surgical (general), neonatal surgical anesthesia, and neonatal radiologic services detailed in subsections (C)(19)(A), (B), (C) and (D) of this Section.

E) Half of all neonatal intensive care direct nursing care hours shall be provided by licensed registered nurses who have two years or more nursing experience in a Level III neonatal intensive care unit. All neonatal intensive care direct nursing care hours shall be provided or supervised by licensed registered nurses who have advanced neonatal intensive care training and who have documented competence in neonatal pathophysiology and care technologies used in the Neonatal Intensive Care Unit. Evidence of current completion of a neonatal resuscitation course and a yearly

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competence assessment in neonatal intensive care nursing shall be required of all nursing staff working in the NICU. Licensed respiratory care practitioners with experience in neonatal ventilatory care shall staff the NICU according to the respiratory care requirements of the patient population with a minimum of one dedicated neonatal licensed

respiratory care practitioner for newborns on mechanical ventilators with additional staff provided as necessary to perform other neonatal respiratory care procedures. All direct respiratory care hours shall be provided or supervised by licensed respiratory care practitioners with 2 years or more neonatal ventilatory care experience at a Level III Neonatal Intensive Care Unit. Evidence of completion of a neonatal resuscitation course and a yearly competence assessment in neonatal respiratory pathophysiology and respiratory care technology are required of all staff providing respiratory care in the NICU.

G) Provide or develop a referral agreement with a follow-up clinic to provide neuro-developmental outcome data on the neonatal population. Institutional policies and procedures will describe the at-risk population and the referral neonatal procedure to be followed. Infants will be scheduled for assessments at regular intervals. Neurodevelopmental assessments will be communicated to the primary care physicians. Referrals will be made for interventional care in order to minimize neurologic sequelae. A system shall be established to track, record, and report neurodevelopmental outcome data for the population, as required to support network CQI activities as developed by the Statewide Quality Council.

H) A protocol shall be established that defines the educational criteria necessary for commonly required home care modalities, including but not limited to continuous oxygen therapy, electronic cardiorespiratory monitoring, technologically assisted feeding and intravenous therapy. One registered pharmacist with experience in perinatal pharmacology shall be available for consultation on therapeutic pharmacology issues 7 days a week.

I) One or more full-time licensed medical social workers with relevant experience shall be dedicated to the Level III perinatal facility. Time allotment should be based on the size of the unit and characteristics and needs of the patient population.

19) In order to provide comprehensive neonatal surgical services, including but not limited to infants with congenital anomalies or congenital heart disease, the Level III facility shall provide the following resources:

A) Neonatal surgical services shall be available 24 hours a day

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and shall be supervised by a surgeon board certified or board eligible in pediatric surgery appropriate for the procedures performed at the Level III facility.

B) Surgical specialists with specific training and extensive experience and/or subspecialty board certification or active candidacy (where applicable) shall be available 24 hours a day in the following subspecialties: pediatric urology, pediatric ophthalmology, neurosurgery, pediatric cardiothoracic surgery, pediatric orthopedics, appropriate for the procedures performed at the Level III facility.

C) Neonatal surgical anesthesia services under the direct supervision of a board certified anesthesiologist with extensive training or experience in pediatric anesthesiology shall be available 24 hours a day.

D) Neonatal radiology services under the direct supervision of a radiologist with extensive training or experience in neonatal radiographic and ultrasound interpretation shall be available 24 hours a day.

E) Neonatal neurology services under the direct supervision of a board certified or active candidate pediatric neurologist shall be available for consultation in the intensive care nursery 24 hours a day.

F) Neonatal cardiology services under the direct supervision of a pediatrician board certified or active candidate by the American Board of Pediatrics sub-board of pediatric cardiology shall be available to consult in the nursery 24 hours a day. In addition, cardiac ultrasound services and pediatric cardiac catheterization service by staff with specific training and experience shall be available as needed 24 hours a day.

G) The neonatal intensive care nursing and respiratory care resource requirements listed in subsections (c)(15) and (18) of this Section, respectively.

H) Genetic counseling services for inpatients and outpatients and appropriate provisions for genetic laboratory testing, including but not limited to chromosomal analysis and banding, FISH, and selected allele detection.

d) Level-III--Personnel Qualifications

1) The Level-III facility shall designate a person to coordinate the community nursing follow-up referral process. This process shall consist of notifying the follow-up nurse in whose jurisdiction the patient resides of discharge information on all patients. The department shall identify and update referral resources for the area served by the unit.

2) Level-III obstetric activities shall be directed and supervised by a full-time subspecialty obstetrician certified by the American Board of Obstetrics and Gynecology in the subspecialty of Maternal and Fetal Medicine or a licensed osteopathic

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physician with equivalent training and experience and certified by the American Osteopathic Board of Obstetricians and Gynecologists. Neonatal activities shall be directed and supervised by a full-time pediatrician certified by the American Board of Pediatrics Sub-Board of Neonatal/Perinatal Medicine or a licensed osteopathic physician with equivalent training and experience and certified by the American Osteopathic Board of Pediatrics/Neonatal/Perinatal Medicine. Obstetric anesthesia services under the direct supervision of a board certified anesthesiologist with training in maternal-fetal and neonatal anesthesia shall be available 24 hours a day. The directors of the obstetric and neonatal services shall ensure the back-up supervision of their services when they are unavailable so that there will be continuity of patient care and consultation. The names and qualifications of directors in each of these disciplines shall be filed and kept current with the Department. The obstetric newborn nursing services shall be directed by a full-time nurse experienced in perinatal nursing preferably with a master's degree.

214) One or more full-time licensed medical social workers with relevant experience shall be dedicated available to the Level III perinatal facility. Time allotment will be with time allocation based on the size of the unit and characteristics and needs of the patient population.

225) Respiratory therapists with experience in neonatal care should be available with staffing based on the respiratory care requirements of the patient population (minimum of 1 respiratory therapist for every 4 patients on mechanical ventilators with additional staff provided as necessary to perform other respiratory care procedures).

236) One registered dietitian with experience in perinatal nutrition and a certified diabetic educator shall be available to plan diets to meet the special needs of high-risk mothers and neonates in both inpatient and outpatient settings.

de) Exceptions to Level III - Standards of Care

1) Exceptions to the standards of care set forth in this Part may be necessary based on patient care needs, current practice, outcomes, and geography in the regional perinatal network. These exceptions are not intended to circumvent the Level III capabilities designation. The applicant facility or the Perinatal Center may seek the advice and consultation of the Department as well as the Perinatal Advisory Committee in regard to the conditions necessary for an exception.

2) Exceptions to the standards of care of this Part may be granted when the facility requesting an exception demonstrates that the resources, staffing, equipment and quality of care (outcomes) are substantially equivalent to the resources standards and quality of care for any Level III facility or Perinatal Center in its

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~~these~~ Regional Perinatal Network. The proposed exceptions shall be determined by the applicant facility and its Perinatal Center based primarily on outcomes.

- 3) ~~Such exceptions shall be negotiated between the applicant facility and their Perinatal Center. The applicant facility or the Perinatal Center may seek the advice and consultation of the Department, as well as the Perinatal Advisory Committee, to facilitate negotiations regarding exceptions to these standards of care. Any exception to the standards of care of this Part must be defined in the letter of agreement.~~

If the applicant facility and its Perinatal Center cannot reach agreement on any aspect of the exceptions to the standards of care of this Part, the applicant facility or Perinatal Center should seek the advice and consultation of the Perinatal Advisory Committee (i.e., subcommittee on facility designation). Any exception to the standards of care of this Part shall be clearly defined in the proposed letter of agreement and approved by the Department before implementing the exceptions or patient care services being requested. The Department may permit a period of testing or trial (probation) to demonstrate that the applicant facility's resources and quality of care (outcomes) are substantially equivalent to the resources and quality of care for any Level III facility.

- 4) If a dispute between the applicant facility and its Perinatal Center cannot be resolved after consultation with the Perinatal Advisory Committee (i.e., subcommittee on facility designation), then the applicant facility, the Perinatal Center or the Perinatal Advisory Committee may submit the dispute to the Department for settlement. The Department shall review all of the relevant information and documentation that clearly substantiates the facility's compliance with particular provisions or standards of perinatal care and the recommendations of the Perinatal Advisory Committee in deciding or settling a dispute. The Department shall inform the applicant facility, the Perinatal Center, and the Perinatal Advisory Committee of its decision or judgment.

- 5) The following information shall be submitted to the Perinatal Advisory Committee (i.e., subcommittee on facility designation) to facilitate the review of the applicant facility's application for designation with exceptions to the standards of care of this Part: ~~the Department shall review all letters of agreement and modification of letters of agreement prior to implementation. The Department shall use the criteria described in subsection (f)(3) of this Section in order to approve or deny approval of any provision of or any letter of agreement.~~

- A) A proposed letter of agreement (unsigned).
B) The curriculum vitae for all directors of patient care, i.e., OB, neonatal, nursing (OB and neonatal).

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- C) Appendices A and B (fully completed).

D) A letter from the Perinatal Center that includes the following information:

- i) List of the exceptions being requested.
ii) Sufficient data/information to demonstrate that the quality of care (outcomes) of the applicant facility are substantially equivalent to the appropriate standards as outlined in this Section.

iii) A description of the monitoring system used when a consultation occurs between the attending physician at the referring hospital and the physician consultant at the Perinatal Center or Level III facility and it is determined that the mother or newborn infant should stay in the community hospital for care.

- iv) A description of any arrangements made between the applicant facility and the Perinatal Center to seek or insure quality improvement.

- 6) When the information described is submitted to the Perinatal Advisory Committee, it shall review the material for compliance with the Regionalized Perinatal Health Care Code, and shall make a recommendation for approval or disapproval of the applicant facility's application for designation with exceptions to the Department.

- 7) The medical co-directors of the Perinatal Center (or their designees) and the medical directors of OB and neonatology and a representative of hospital administration from the applicant facility shall be present during the Perinatal Advisory Committee's review of the applicant facility's application for designation with exceptions.

- 8) The Department shall review the submitted materials and any other documentation that clearly substantiates the facility's compliance with particular provisions or standards of perinatal care, including quality of care (outcomes) information and the recommendation of the Perinatal Advisory Committee, and shall make a recommendation to the Director of Public Health concerning the approval or disapproval of the applicant facility's application for designation with exceptions.

- 9) The Director of Public Health shall make the final decision and inform the facility of the official determination regarding designation with exceptions to the standards of care of this Part. The Director's decision shall be based upon the recommendation of the Perinatal Advisory Committee and the facility's compliance with the Regionalized Perinatal Health Care Code, and may be appealed in accordance with Section 640.45. The Director of Public Health shall consider the following criteria or standards to determine if a facility is in compliance with the Code:

- A) Maternity and Neonatal Service Plan (Subpart O of the

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Illinois Hospital Licensing Requirements.

- B) Proposed letter of agreement between the applicant facility and its Perinatal Center in accordance with the provisions described in Section 640.70.
- C) Appropriate outcome information contained in Appendices A and B.
- D) Other documentation that clearly substantiates a facility's compliance with particular provisions or standards of perinatal care.
- E) Recommendation of Department program staff.
- F) The Department, in conjunction with the Perinatal Advisory Committee, shall develop a plan for the evaluation of the Regionalized Perinatal Health Care Code to include, but not be limited to, morbidity and birthweight specific mortality indicators. A report shall be prepared annually.
- G) The Department shall develop a plan wherein the degree of compliance with these standards is determined on a periodic basis not to exceed three years.
- H) The standards identified throughout this Section do not apply to infants who, after having completed initial therapy, are transferred back to the referring hospital for continuing care. The capability of the hospital to provide necessary services for such infants is to be determined by mutual consent with the Perinatal Center and the issue addressed in the letter of agreement.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 640.44 Perinatal Center

- a) To be designated a Perinatal Center, a facility shall apply to the Department for the designation, and shall comply with all of the conditions described for intensive (level level II) perinatal care in Section 640.43 and shall comply with all of the conditions described in Subpart O of the Hospital Licensing Requirements (77 Ill. Adm. Code 250) promulgated by the Department which are applicable to the level of care necessary for the patients served, and in addition shall comply with the following:

- 1) A Perinatal Center shall be a university or university affiliated facility responsible for the administration and implementation of the Department's regionalized perinatal health care program including continuing education for health professionals. A Perinatal Center may be composed of one or more institutions.
- 2) A Perinatal Center must be capable of providing the highest level of care within a regional network appropriate to maternal and neonatal high-risk patients. The following services shall be available:
 - A) Consultants in the various medical-pediatric-surgical

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- subspecialties including cardiac, neurosurgery, genetics, and other support services;
- B) Follow-up assessment program;
- C) Maternal and neonatal transport services;
- D) Laboratory facilities available to the hospitals within the regional perinatal network.
- b) Within each regional perinatal network there shall be a Perinatal Center designated by the Department to be responsible for the administration and implementation of the Department's Regionalized Perinatal Health Care Program.
- c) The Perinatal Center will be responsible for providing leadership in the design and implementation of the Department's Continuous Quality Improvement (CQI) program. This will include the establishment and maintenance of a regional quality improvement structure (Regional Quality Council) for the implementation of the Department's Quality Improvement in Perinatal Program, (QIPP).
- d) Agency Review

- 1) The Department shall develop a plan that has the degree of compliance with this Section's standards determined on a periodic basis not to exceed three years.

- 2) The standards identified throughout this Section do not apply to infants who, after having completed initial therapy, are transferred back to the referring hospital for continuing care. The capability of the hospital to provide necessary services for these infants is to be determined by mutual consent with the Perinatal Center and the issue addressed in the letter of agreement.

- 3) The Department shall develop a methodology for incorporating perinatal outcomes information into the perinatal facility designation, redesignation, and exception processes. The Department shall seek input on the development of this methodology from the Perinatal Advisory Committee. This input shall include, but not necessarily be limited to, the identification and selection of indicators, defining standards for each level of care and the methodology for applying the standards to the designation, redesignation and/or exception processes.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 640.45 Agency Action

- a) Any designated facility which fails to comply with the requirements for its designation may have its application for designation denied or its designation revoked by the Department. The Department shall consider the following factors relevant in deciding whether failure to comply with the requirements for designation will result in denial or

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revocation:

- 1) Failure to complete the letter of agreement.
- 2) Failure to have an approved Maternal and Neonatal Service Plan.
- 3) Failure to complete the site visit and accompanying site visit report, i.e., Standardized Perinatal Site Visit Protocol and Outcome Oriented Data.
- 4) Applicant facility has not demonstrated compliance with all of the requirements for the level of designation.
- 5) Applicant facility has failed to demonstrate adequate participation in Continuous Quality Improvement (CQI) activities, including the Regional Quality Council or other programs, designed or implemented by the Perinatal Center or the Department.

b) The circumstances under which an application or designation may be denied or revoked include:

- 1) failure to comply with the requirements for designation has been noted by the Department; and
- 2) when the institution has been notified by the Department as to the specific item or items not in compliance with the requirements for designation, and when the institution has not corrected the matter within a reasonable period of time (90 days).

c) The provisions of the Illinois Administrative Procedure Act [5 ILCS 100] ~~that Rev. Stat. 1969 ch. 327, par. 1-401 et seq.~~ and the Department's Rules of Practice and Procedure for Administrative Hearings (77 Ill. Adm. Code 100) shall apply to all hearings challenging Department decisions, including those related to designation, redesignation, and denial or revocation of designation.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 640.50 Designation and Redesignation of Level I, Level II, Level III With Extended Capabilities, and Level III Perinatal Facilities

- a) The facility shall declare by means of a letter of intent to the Department that it seeks designation as a facility for the delivery of general perinatal care (Level I) or intermediate perinatal care (Level II or Level III with extended capabilities) or intensive care (Level III) in one of the Regional Perinatal Networks of the Illinois Perinatal Health Care Program.
- b) The Department shall acknowledge the letter of intent.
- c) The Perinatal Center shall arrange a site visit to the applicant facility. The site visit team for Level I, Level II, or Level III with extended capabilities, and Level III perinatal facilities shall consist of 5 members: three from the Perinatal Center of the hospital network, including the Directors of Neonatology and Maternal-Fetal Medicine or their designees and a representative of nursing; one representative from

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the PAC; and one representative of the Department. The site visit team shall review the capabilities of the applicant facility based on the requirements outlined in the letter of agreement between the applicant facility and the Perinatal Center. The site visit team shall complete the Standardized Perinatal Site Visit Protocol (see Appendix-A) and Outcome Oriented Data (see Appendix-B) and submit these materials to the medical directors of the facility visited for their review and comment within 30 days from the date of the site visit.

d) The Department shall coordinate the site visit for Perinatal Centers. The team shall consist of 5 members: one Director of Neonatology, Maternal-Fetal Medicine and Nursing from a non-contiguous Center; one representative from the PAC; and one representative of the Department. The site visit team shall complete the Standardized Perinatal Site Visit Protocol and Outcome Oriented Data and submit these materials to the Perinatal Center for their review and comment within 30 days from the date of the site visit.

e) The complicated site visit report shall then be forwarded to the Department within 60 days from the date of the site visit. Department staff shall be available for technical and administrative consultation concerning the site visit.

f) The Department, having received the information requested concerning the applicant facility, the site visit report and the letter of agreement between the applicant facility and the Perinatal Center, shall submit these materials to the Perinatal Advisory Committee for review. The applicant facility may request to appear or may be asked to appear before the Perinatal Advisory Committee during its review of the application.

g) When the information described in Section 640.60 is submitted to the Perinatal Advisory Committee, it shall review the material, and the report of the site visit, for compliance with the Regionalized Perinatal Health Care Code; and shall make a recommendation for approval or disapproval of the facility's application for designation to the Department.

h) The Department shall review the submitted materials, any other documentation that clearly substantiates ~~substantiate~~ a facility's compliance with particular provisions or standards for perinatal care, and the recommendation of Perinatal Advisory Committee, and shall make a recommendation to the Director of Public Health concerning designation of the facility as an affiliated perinatal facility (Level I, Level II, Level III with extended capabilities, Level III) to a designated Perinatal Center in the Statewide Regionalized Perinatal Health Care Program.

i) The Director of Public Health shall make the final decision and inform the facility of the official determination regarding designation. The Director's decision shall be based upon the recommendation of the Perinatal Advisory Committee and the facility's compliance with the Regionalized Perinatal Health Care Code, and may be appealed in

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accordance with Section 640.45. The Director of Public Health shall consider the following criteria or standards to determine if a facility is in compliance with the Code:

- 1) Confirmation of an approved Maternity and Neonatal Service Plan at the level of care for which the facility is seeking designation.
- 2) An approved letter of agreement between the applicant facility and its ~~the~~ Perinatal Center in accordance with the provisions described in Section 640.70.
- 3) A completed Standardized Site Visit Protocol and Outcome Oriented Data report in accordance with the provisions described in Section 640.50(c)-(e) ~~(e-e)~~.
- 4) Other documentation that clearly substantiates substantiate a facility's compliance with particular provisions or standards for perinatal care.
- 5) Recommendation of Department program staff.
- 3) All Recommendations shall be reviewed by the Department every three years or when the Department may deem necessary to assure that designated facilities continue to comply with the requirements of the perinatal plan. Circumstances which may influence the Department to review a facility's designation other than every three years could include:
 - 1) When a hospital wanted to expand or reduce services.
 - 2) Poor perinatal outcomes.
 - 3) Change in Perinatal Center or Network affiliation.
 - 4) Availability of human resources to complete Department site visit.
 - 5) When a Perinatal Center finds and the Department concurs or determines that a hospital is not appropriately participating in Continuous Quality Improvement (CQI) activities and/or the Quality Improvement in Perinatal Program (QIPP).
- k) Existing designations shall be effective until redesignation is accomplished.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 640.60 Information for Facility Designation and Redesignation as Level I, Level II, Level III with Extended Capabilities, and Level III Perinatal Facilities and Assurances Required of Applicants

- a) Applicant facilities shall provide the Department the following information which may be included in its Maternity and Neonatal Service Plan or letter of agreement better-of-Agreement:
 - 1a) A definition of the geographic area the facility currently serves or plans to serve is-required.
 - 2b) A description of the physical facility, compliance with Subpart O of 77 Ill. Adm. Code 250, and a description of the maternity and

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nursery units currently in place or in preparation for operation should the facility be designated.

3c) A description of the facility's staffing in accordance with those additional standards or designation described in the Regionalized Perinatal Health Care Code as follows:

- A) Social work and nutrition services shall be available through a hospital department for Level II, and Level III designation.
- B) Names, titles and contact numbers shall be provided for the Director or Chairman of Maternal-Petal Medicine, Neonatology, Obstetrics, Pediatrics and Neonatal Services, Chief Nursing Supervisor, Nursing Supervisor of Maternity Unit; names and contact number of medical staff members in maternal-fetal medicine Maternal-Petal-Medicine, obstetrics and gynecology, neonatology, OB anesthesiology, family practice, anesthesiology; listing of anesthesiologists, staff for respiratory therapy, nurse-midwives, and involved house staff.
- C) A description of the current nurse/patient ratios in the nursery, delivery room, postpartum floor and intermediate or intensive care newborn nurseries for all shifts ~~shall be provided~~.
- D) A description of the qualifications of nursing personnel involved in the newborn nursery, delivery room and postpartum area ~~shall be provided~~.
- E) A description of the staff plans to assure that maternity/nursery staff are trained and prepared to stabilize infants prior to transfer, and are available 24 hours a day ~~shall be provided~~.
- 4d) A description ~~is-required~~ giving evidence that the facility's laboratory, X-ray and respiratory therapy equipment and capabilities meet all the conditions described in 77 Ill. Adm. Code 250, Subpart O and are available 24 hours a day in-house.
- 2a) Evidence is required that continuous electronic maternal-fetal monitoring is available and staff knowledge in its use and interpretation is available 24 hours a day for Level I, Level II, Level III with extended capabilities.
- B) Level III designation applicants ~~is-required~~.
- C) Level I ultrasound and staff knowledgeable in its use and interpretation shall be available at Level II facilities on a 24 hour a day basis.
- 5e) A description ~~is-required~~ of the capabilities for, or planned for (giving the start-up time), emergency neonatology surgery, listing specialists such as surgeons, trained or support staff for neonates, and a description of the capabilities for caesarean section ~~and-start-up-time~~.

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6f) A description of the present plan for identification of high-risk maternity and neonatal patients and agreements for consultation with the Perinatal Center in cases of maternity and neonatal complications and neonates with handicapping conditions ~~shall be provided~~. This description shall include plans and agreements for providing:

- A) Management of acute surgical or cardiac difficulties;
- B) Genetic counseling should a genetically related condition be diagnosed in the neonate, or should a parent or a known carrier request such services;
- C) Information, counseling and referral for parents of neonates with handicapping conditions or developmental disabilities to ensure informed consent for treatment;
- D) Counseling and referral services to assist these patients in obtaining habilitation and rehabilitation services;
- E) A description of the types of patients the facility will care for and the types of patients it will refer to the Perinatal Center.

7) A description of the history and current level of involvement with Continuous Quality Improvement activities as designed and implemented by the Perinatal Center.

8) ~~All the applicant facility shall provide all~~ of the information required for facility designation or redesignation to the Perinatal Center with which it is seeking affiliation with.

9) ~~The following guidelines shall govern the review of perinatal facilities applying for designation or redesignation:~~

- 1) Hospitals applying for perinatal designation or redesignation shall provide all the information contained in Standardized Perinatal Site Visit Protocol (Appendix A) and Outcome Oriented Data (Appendix B).

2) The completed Standardized Perinatal Site Visit Protocol and Outcome Oriented Data shall be submitted to the Department, along with the site visit report, and the letter of agreement.

3) The Standardized Perinatal Site Visit Protocol and Outcome Oriented Data shall be sent by the Department to PAC members, no less than one week in advance of the meeting, ~~by the Department~~ to facilitate their review of the applicant facility.

4) A representative of the Perinatal Center shall be present at the PAC meeting to respond to questions or concerns of PAC members regarding the facility's application for designation or redesignation. The representative may also be asked to present an oral summary of the applicant facility and the Perinatal Center's reasons ~~reasons~~ for recommending/not recommending designation or redesignation to the PAC.

5) The Department shall ask the Perinatal Center to conduct a follow-up site visit to the facility if the initial site visit is more than 6 months prior to submission for review by PAC for designation or redesignation. In such cases, approval shall be

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contingent upon receiving the findings of the follow-up site visit.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 640.70 Minimum Components for Letters of Agreements Between Level I, Level II, Level III with Extended Capabilities, or Level III Perinatal Facilities and Their Perinatal Center

The following components at a minimum shall be addressed in a letter of agreement between the applicant facility and its ~~their~~ Perinatal Center:

a) A description of how maternal and neonatal patients with problems, including handicapping conditions or developmental disabilities, will be identified.

b) A description of the types of maternal and neonatal cases in which consultation from the Perinatal Center or Level III facility will be sought and from which patients will be selected for transfer ~~shall be provided~~. This description shall address those high-risk mothers or neonates with:

- 1) Handicapping conditions, developmental disabilities, or medical conditions that are life threatening and require transport to a Perinatal Center or a Level III facility.
- 2) Handicapping conditions, developmental disabilities, or medical conditions that may require additional medical and surgical treatment and support services, but would not, however, require transport to a Perinatal Center or Level III facility.

c) A description of how the Perinatal Center or Level III facility will report patients' progress to the referring physicians, and the criteria for return of patients from the Perinatal Center or Level III facility to an affiliated facility closer to the patients' home ~~shall be provided~~.

d) A description of the methods for transporting high-risk mothers and neonates with physiological support in transit ~~shall be provided~~.

e) A description of the information, counseling and referral services available within the local community and the regional network for parents or potential parents of neonates with handicapping conditions or developmental disabilities.

f) A description of the professional educational outreach program for the regional network, including how efforts will be coordinated ~~shall be provided~~.

g) A provision requiring the establishment of a Joint Mortality and Morbidity Review Committee to review all perinatal deaths and selected morbidity. The review shall include the births of children born with handicapping conditions or developmental disabilities, utilizing criteria of case selection developed by the PAC to determine the appropriateness of diagnosis and treatment of neonates born with a handicapping condition or developmental disability and the adequacy of

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*Procedures to prevent such disabilities or the loss of life. PAC--40
 DETERMINE--THIS--APPROPRIATENESS--OF--DIAGNOSIS--AND--TREATMENT--OF--NEWBORN
 BORN--WITH--A--HANDICAPPING--CONDITION--OR--DEVELOPMENTAL--DISABILITY--AND--THE
 AGENCY--OF--PROCEDURES--TO--PREVENT--SUCH--DISABILITIES--OR--THIS--LOSS--OF--LIFE* (Section 3(g) of the Act). This review shall also include a periodic comparison of total perinatal mortality and the relative numbers attributable to various categories of complications. Membership on the Committee should include pediatricians, pediatricians, obstetricians, obstetricians and representation from their designated Perinatal Center. Membership on the Committee may also include general family practitioners, with specified support staff of the hospital. A yearly synopsis of the Perinatal Network's perinatal deaths will be prepared by the Network Administrator. This synopsis will include statistical information, as well as an identification of the factors contributing to deaths assigned a disposition of potentially avoidable. The synopsis will be shared with the Regional Quality Council. An action plan to address issues of preventability will be developed, for the Network, by the Regional Quality Council. The Regional Quality Council's action plan will be forwarded to the State-Wide Quality Council. The membership of the Regional Quality Council shall include representatives from all levels and disciplines of perinatal healthcare providers.

- h) A description of the regional perinatal network's program for medical and home nursing follow-up describing systems of liaisons, ~~shall be provided~~ with a letter of agreement from the agency providing the home nursing follow-up services.
- i) A description of the methodologies used to monitor, evaluate, and improve the quality of health care services provided under the auspices of the applicant facility, including a clear set of expectations of both the Perinatal Center and applicant facilities on joint participation in continuous quality improvement activities.
- j) A stipulation requiring the provision of information, counseling and referral services to parents or potential parents of neonates with handicapping conditions or developmental disabilities upon the identification of the handicapping conditions and developmental disabilities to assist in obtaining habilitation, rehabilitation, and special education services.
- k) A provision requiring evaluation and consultation with the Perinatal Center or Level III facility and referral to the Perinatal Center or Level III facility, when determined appropriate by the perinatal conditions or developmental disabilities, within 24 hours after of the identification of the conditions (specific conditions must be defined in the letter ~~better~~ of agreement ~~Agreement~~).
- l) A provision requiring the establishment of procedures for referral to appropriate State ~~state~~ and local education service agencies of children having an identified handicapping condition or developmental disability requiring evaluation and assessment under such agencies. The procedures shall include a provision for obtaining parental

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consent prior to release of information to the appropriate State ~~state~~ and local educational service agencies.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 640.90 Perinatal Reporting System

- a) Purpose
 The Department will maintain a Perinatal Reporting System to follow selected high-risk perinatal patients, to insure that those patients are assessed at appropriate intervals, receive intervention as needed, and are referred for needed support services.
- b) Identification and Referral of High-risk Maternal Patients.

- 1) Each designated Perinatal Center and Level III facility which provides obstetrical care shall establish criteria and procedures for identifying high-risk pregnant and postpartum patients. A statement describing such criteria and procedures shall be on file and shall be provided to the Department on request.
- 2) Each designated Perinatal Center and Level III facility shall prepare and distribute a Maternal Discharge Record (see Section Appendix C), to be provided by the Department, for each high-risk pregnancy or postpartum patient treated in the facility who requires public health nursing follow-up. If a patient is readmitted during the same or subsequent pregnancies and is deemed to be high-risk, another Maternal Discharge Record shall be prepared and distributed if public health nursing follow-up is needed.

- 3) The hospital's Perinatal Review Committee established pursuant to Section 640.70, or other committee established for the purpose of internal quality control or medical study for the purpose of reducing morbidity or mortality or improving patient care, shall collect and submit the required information to the Department. These data will be considered confidential under this--Section--45Section 8-2101 of the Code of Civil Procedure 1735 ILCS 5/8-2101.

- 4) The Maternal Discharge Record shall be completed and distributed within seven days after the patient's discharge from the facility. Instructions for proper completion of the Maternal Discharge Record are contained in Appendix C. Additional pages may be attached when there is insufficient space on the form for all needed information.

- 5) Copies of the Maternal Discharge Record shall be distributed as follows:

- A) The original form (white copy) of the Maternal Discharge Record shall be sent to the Department of Public Health--Division of Family Health, 535 West Jefferson, Springfield, Illinois 62761;

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- B) The yellow canary copy shall be sent to the Local Health Department or other local health agency designated by the Department to provide follow-up services in the county or area in which the patient resides;
- C) The pink copy shall be retained by the reporting facility.
- B) sent-to-the-patient's-primary-care-physician-and
facility.
- 6) The hospital staff is encouraged to contact the designated local health agency by telephone when there is a need for additional information to be communicated to the local health nurse, or when a pre-discharge visit by the local health nurse is needed.
- 7) The Department will provide to the hospitals a list of Local Health Departments and other local health agencies designated to provide follow-up services to high-risk maternal patients. The list will be updated as needed, at least annually.
- c) Identification of Perinatal Patients
- 1) The Department requires that all Illinois hospitals licensed to provide obstetrical and newborn services report information on all perinatal patients. The Department requests, but does not require, reports on perinatal patients from hospitals outside Illinois, except the St. Louis perinatal centers, and hospitals maintained by the Federal Government or other governmental agencies within the United States.
 - 2) Each hospital will prepare a Perinatal Report record (see See Appendix H) to be provided by the Department for patients meeting one of the following conditions:
 - A) Live-birth.
 - B) Diagnosed prior to discharge from newborn hospitalization as a perinatal or neonatal death.
 - 3) AGENCY NOTE: Women that present with spontaneous abortion, ectopic pregnancy or hydatid mole are perinatal patients and must be reported. In addition, the products of induced abortions shall not be reported to the Perinatal Reporting System.
 - B) AGENCY NOTE: Fetal death (gestation greater than 20 weeks) is considered a reportable perinatal outcome and will be included in the Perinatal Reporting System. However, fetal deaths do not have to be reported through the Perinatal Reporting System, because these deaths are already reported and compiled in the Department's Vital Records database.
 - 3) Every hospital shall provide representatives of the Department with access to information from all medical, pathological, and other pertinent records and logs related to reportable registry information. The mode of access and the time during which this access will be provided shall be by mutual agreement between the hospital and the Department. The Department shall not require hospitals to provide information on cases which are dated more than two years before the Department's request for further

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information.

- 4) The Perinatal Reporting System also will be complemented with information from the Department's Vital Records live birth database under the Vital Records Act-(410 ILCS 535) ~~Rev-Stat-1989~~ ~~ch-111-1/27-pars-73-1-et-seq-7~~, the Adverse Pregnancy Outcomes Reporting System under the Illinois Health and Hazardous Substances Registry Act (410 ILCS 525) ~~Rev-Stat-1989~~ ~~ch-111-1/27-pars-6781-et-seq-7~~ and other Maternal and Child Health Reports and submissions.
- 5) The Perinatal Reporting System consists of two forms of reporting. This reporting shall be on the forms provided by the Department or through electronic means that meets the exact specifications of the Department's data processing system. Complete perinatal reporting information must be reported to the Department within 14 days after of infant discharge, regardless of the method of reporting.
- 6) The Perinatal Report record shall be distributed in the following manner:
 - A) Two copies of the Perinatal Reporting System record must be sent to the Department of Public Health's ~~Department's~~ ~~Division-of-Family-Health~~ ~~Office of Epidemiology and Health Systems Development~~, 605 535 West Jefferson, Springfield, Illinois 62761.
 - B) A pink copy may be retained by the reporting facility.
 - C) A copy must be forwarded to the Local Health Nurse.
 - D) A copy must be forwarded to the Primary Care Physician.
- d) Report of Local Health Nurse
 - 1) The Local Health Department or other designated local health agency providing follow-up services to high-risk-pregnant-and-postpartum-women-and-to high-risk infants shall prepare and distribute a Report of Local Health Nurse (see Exhibit A of Appendix D), to be provided by the Department, for each visit made or-attended; a Report shall also be distributed when a case is closed without a visit. Specific instructions for proper completion of the Report of Local Health Nurse are contained in Exhibit B of Appendix D.
 - 2) Copies of the Report of Local Health Nurse shall be distributed as follows:
 - A) The original form (white copy) of the Report of Local Health Nurse shall be sent to the ~~Department's~~ ~~Maternal-Child Health-Nurse-Consultant-in-the-appropriate-Regional-Office~~ ~~who-will-review-them-and-forward-them-to-the-Department's~~ ~~central-office-within-seven-days-if-that-position-is~~ ~~vacant-the-Report-shall-be-sent-to-the-Division-of-Family~~ ~~Health-Illinois~~ ~~Department of Public Health~~, 535 West Jefferson, Springfield, IL 62761.
 - B) The canary copy shall be sent to the hospital which referred the patient for follow-up services.

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- C) The pink copy shall be retained at sent to the appropriate Local Health Nurse Agency.
- D) The goldenrod copy shall be sent to the patient's primary care physician.

- 3) The Local Health Department or other designated local health agency providing follow-up services to high-risk pregnant and postpartum women should send a copy of the progress notes to the referring hospital.
- e) Availability of information

- 1) The patient and facility-identifying information submitted to the Department or local health agency under the Act and this Part shall be privileged and confidential and shall not be available for disclosure, inspection or copying under the Freedom of Information Act or the State Records Act, except as described in this Section. These data shall also be considered confidential under Section 8-2101 of the Code of Civil Procedure.

- 2) Aggregate summary and statistical reports of follow-up activities containing information--which--identifies--individual patients--and/or--individual--hospitals--may be provided upon request to hospitals the--hospital--which--it--is--affiliated, and to the perinatal centers--with--which--it--is--affiliated, and to the local health agency designated by the Department to provide follow-up services to the patients. Such reports may contain information provided by the referring hospital and information provided by the follow-up agency. Patient or facility specific data provided to the appropriate designee under this Section is confidential and shall be handled in accordance with the provisions of the Illinois Health Statistics Act [410 ILCS 520] and Section 9 of the Hospital Licensing Act [210 ILCS 95]. These data shall also be considered confidential under Section 8-2101 of the Code of Civil Procedure.

- 3) All reports issued by the Department in which the data is aggregated so that no patient or reporting facility may be identified shall be available to the public pursuant to the Department's Freedom of Information rules (2 Ill. Adm. Code 1126) and the Freedom of Information Act [5 ILCS 140].

f) Quality Assurance and Continuous Quality Improvement Center

- 1) Reporting facilities (i.e., hospitals, Local Health Departments, managed care entities (MCEs), and designated local health agencies) shall be subject to review by the Department to assess the timeliness, correctness and completeness of the reports submitted by the facility.

- 2) Reporting facilities (i.e., hospitals, Local Health Departments, managed care entities (MCEs), and designated community health agencies) shall supply to the Department at the Department's request additional information when needed to confirm the accuracy of reports previously submitted, or to clarify information previously submitted. The Department shall not

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request data that are more than two years old.

- 3) Each--Report--of--Local--Health--Nurse--will--be--reviewed--by--an--MCH Nurse--Consultant--who--will--consult--with--the--follow-up--nurse--if there--are--questions--regarding--any--aspect--of--the--assessment--or follow-up--plan--for--the--infant/family.

- 34) Monthly reports will be compiled by the Department, listing all hospital referrals to each health department/agency. The reports will be used for audits and assistance to health departments. A copy of the report will be sent to each health department/agency so they can verify that they have received all referrals intended for their agency.

- 5) The--Department--will--compile--periodic--reports--listing--individual infants--and--the--number--of--follow-up--visits--received--to--monitor compliance--with--the--protocol.

- 6) The--Department--will--track--selected--infant--outcomes--including results--of--developmental--screening--immunizations--received--and support--service--referrals.

- 4) Managed Care Entities must submit their Quality Assurance Plan (QAP) to the Department for review and use in state-wide Quality Improvement in Perinatal program efforts.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 640.100 High-Risk Follow-up Program

- a) Local Health Nursing Follow-up for the High-Risk Mother

- 1) Purpose
Home visits to families of high-risk/pregnant and postpartum women have a two-fold three-fold purpose: assessment of the woman and the family/environment and facilitation of early intervention for identified problems--and--the--collection--of information--for--the--Perinatal--Reporting--System.

- 2) Agencies to Provide Services
A) All Local Health Departments should provide follow-up services to residents of their counties.

- B) The Department may contract with a local health agency or county nurse to provide follow-up services to residents of areas without a Local Health Department.

- 3) Eligibility for Services
Any pregnant or postpartum patient identified as high-risk by a Level III hospital and referred to a Local Health Department or other designated local health agency should be offered follow-up services. The patient may decline such services.

- 4) Services to be Provided
A) Home visits to high-risk pregnant women should be scheduled as often as the Client's condition warrants or as requested by the attending physician. A post-discharge visit should be

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medical regimen, if any, including medications, treatments, and visits to the physician; infant care; including nutrition, elimination, and sleep activity; and family/infant interaction, family coping and parental knowledge of injury prevention.

- ii) Physical assessment, developmental assessment, and age specific anticipatory guidance based on the American College of Obstetricians and Gynecologists guidelines or current recommendations of the State including: height---weight---height---for---weight---and---head circumference---examination-of-head---eyes---ears---nose---mouth---chest---abdomen---heart---lungs---and---extremities; primitive-reflexes---and-developmental-status-using-the Reactionary-Skills-and-Abilities-Observation-guide.

- iii) Based on the results of the health history and physical assessment, the nurse will identify problems and nursing diagnoses and arrange for intervention. Intervention may include: counseling the family as to the importance of regular primary health care by the family physician, pediatrician, or clinic; encouraging scheduled return visits to Perinatal Center; family teaching/counseling by the follow-up nurse; referral to the physician or other screening, diagnostic or support services depending on the nature of the problem; and follow-up on referrals.

- 5) Local health agencies must adhere to the provisions of the Maternal and Child Health Services Code (77 Ill. Adm. Code 630) and the Department's High Risk Infant Tracking Supplement for Local Health Departments.

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made as soon as possible after discharge. Additional visits may be made during the postpartum period (i.e., 6 weeks following the date of delivery) for pregnancy-related conditions as indicated or as requested by the attending physician. If additional visits are for chronic health conditions (e.g., chronic hypertension, CVA, advanced cardiac disease), the patient should be referred to the licensed home health agency in the area for long-term follow-up.

- B) Local health agencies which provide services must adhere to the provisions of the Maternal and Child Health Services Code (77 Ill. Adm. Code 630) by contract with the Department. ~~may not be re-mursed for more than eight (8) prenatal or one (1) postpartum visit(s) to a patient without prior written approval from the Regional MCH Nurse-Consultant.~~

- b) Local Health Nursing Follow-up for High-Risk Infants

- 1) Purpose
The purpose of the infant follow-up program is to minimize disability in high-risk infants by identifying as early as possible conditions requiring further evaluation, diagnosis, and treatment and by assuring an environment that will promote optimal growth and development.

- 2) Agencies to Provide Services
A) All Local Health Departments should provide follow-up services to residents of their counties.

- B) The Department may contract with a local health agency to provide follow-up services to residents of areas without a Local Health Department.

- 3) Eligibility for Services
Any infant eligible for the Adverse Pregnancy Outcomes Reporting System (APORS) and referred to a Local Health Department or other designated local health agency should be offered follow-up services. The family may decline such services.

- 4) Services to be Provided
A) A minimum of ~~five~~ visits should be made by the follow-up nurse: as soon as possible after newborn hospital discharge, and at infant chronological ages 2, 6, 12, 18, and 24 months. Infants and their families having actual or potential health problems identified by the nurse should be visited more frequently for health monitoring, teaching, counseling and/or referral for appropriate services. Occasionally, when an infant is receiving services at the health department, a follow-up visit may be conducted by the nurse at that time.

- B) Follow-up services should include:
i) Health history including: prenatal and natal history; parental concerns; family history of genetic disease or unexplained mental retardation; compliance with

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Section 640 APPENDIX A Standardized Perinatal Site Visit Protocol

Components of site visit tool - information to be completed by applicant facility prior to site visit and reviewed and approved at time of site visit.

(By site visit team)
Initial/Date

I. PROGRAM DOCUMENTATION:

- / Updated maternity service plan with current staffing pattern appropriate for level of care.
- / Documentation of orientation program for nursing staff.
- / Documentation of ongoing continuing education program.
- / Documentation of Continuous Quality Improvement (CQI) Activities.
- / Updated, comprehensive procedure manual.
- / Appropriate resources checklist.

II. STAFF PERFORMANCE:

- / Chart review (site visit team).
- / Discussion of patient care with staff selected at random by the site visit team.

III. COMMENTS:

Director of Site Visit Team:
Title:

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DESIGNATION/REDESIGNATION
(To be completed by the site visit team and endorsed by the Directors of the Regional Perinatal Network)

Level of Designation Applied for: Level I Level II Level III

HOSPITAL: _____
CITY/TOWN: _____

DESCRIPTION: OP GBS/RHIFIC AREA
SERVICE: _____

PERINATAL CENTER: DATE: OP SITE VISIT TEAM

MEMBERS (Families and affiliated institution) OP SITE VISIT TEAM

Components of site visit tool - information to be completed by applicant facility prior to site visit and reviewed and approved at time of site visit. If individual criteria are not approved, state reason why. (Additional pages may be attached if necessary.)

(By site visit team)

A. PROGRAM DOCUMENTATION
Initial/Date

Updated maternity service plan with current staffing pattern is appropriate for level of care.

For Level III facilities - Documentation that all medically eligible Illinois residents are accepted for admission or if unable to accept - referral - that arrangements are made for admission to another level III facility or Perinatal Center in the system.

Documentation of orientation program for nursing

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staff:

----- 4: Documentation---of---ongoing---continuing
education

program:

----- 5: Documentation---of---quality---assurance
programs:
----- 6: Updated, comprehensive procedure manual:

B---EUSOMB-ORIENTED PERFORMANCE DATA (See Attachment):

C---LETTER OF AGREEMENT

----- 1: Prior risk identification
and patient management

----- 2: Documentation of morbidity/mortality
and G-Section review conference:

----- 3: Appropriateness of infant and
maternal transport (including emergency transport
for Perinatal Center):

----- 4: Evidence that recommendations
made by Perinatal Center or state
and city agencies have been implemented:

----- 5: Compliance with ancillary
laboratory service and the services
are appropriate for level of care:

B---STAFF PERFORMANCE

----- 1: Documentation of appropriate staff
for level of care including but not limited
to respiratory therapist, social worker, dietitian:

----- 2: Chart review (physicians):

----- 3: Discussion of patient care with
staff selected at random by
the site visit team:

----- 4: Chart review (nursing):

----- 5: Discussion of patient care with nursing staff

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selected at random by the site visit team:

B---COMMENTS (Attach Additional Pages if Necessary)

Director of Site Visit Team:

Title:

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 640, APPENDIX B Outcome Oriented Data: Perinatal Facility
Designation/Redesignation
Exhibit A Outcome Oriented Data Form

Level of Designation Applied for:

Level I _____ Level II _____
Level II (with extended capabilities) _____
Level III _____ Perinatal Center _____

HOSPITAL:

CITY:

DESCRIPTION OF GEOGRAPHIC AREA SERVED:

PERINATAL CENTER:

DATE OF SITE VISIT:

MEMBERS (titles and affiliated institution) OF SITE VISIT TEAM:

Please use data from previous 3 calendar years: YEAR _____

I. STATISTICS

A. Maternal Data

1. Number of obstetrical beds:

a. Antepartum _____

b. Labor / Delivery _____

LDR / LDRP _____

C/Section Rooms _____

Delivery Rooms _____

c. Intensive Care Beds _____

d. Postpartum _____

2. Total number of deliveries: _____

3. Percent of vaginal deliveries: _____

Spontaneous _____

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Forceps _____
Vacuum Extraction _____

4. Percent of C/Sections: _____

& Primary _____

& Repeat _____

5. Number of VBACs: _____

Attempts _____

Successes _____

6. Percent of inductions: _____

7. Percent of augmentations: _____

8. Outcomes for Maternal Admissions with the following diagnoses: _____

Diabetes

of maternal admission _____

transferred out for _____

delivery _____

discharged undelivered _____

of neonatal deaths _____

of fetal deaths _____

of neonates transferred _____

to a higher level facility _____

Chronic Hypertension

of maternal admissions _____

transferred out for _____

delivery _____

discharged undelivered _____

of neonatal deaths _____

of fetal deaths _____

of neonates transferred _____

to a higher level facility _____

B. Neonatal Data

1. Number of nursery beds: _____

Normal newborn _____

Intermediate / Special _____

care _____

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NICU / Level III

Average daily census in
the Special Care Nursery
(Level II or II with extended
capabilities or Level
III intermediate)

Average daily census
in the NICU (Level III)

C. Fetal Mortality

1. Birthweight Specific Data:

<500 grams

501-750

751-1000

1001-1250

1251-1500

1501-2000

2001-2500

2501-3000

3001-3500

3501-4000

4001-4500

4501-5000

5001 PLUS

2. Live Birth Data:

<500 grams:

Number of infants born
Number of infants ventilated
beyond six hours
Number of ventilated
infants survived
Ventilator days (total)

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Oxygen days (total)
Length of stay (days)

501-750 grams:

Number of infants born
Number of infants ventilated
beyond six hours
Number of ventilated
infants survived
Ventilator days (total)
Oxygen days (total)
Length of stay (days)

751-1000 grams:

Number of infants born
Number of infants ventilated
beyond six hours
Number of ventilated
infants survived
Ventilator days (total)
Oxygen days (total)
Length of stay (days)

1001-1250 grams:

Number of infants born
Number of infants ventilated
beyond six hours
Number of ventilated
infants survived
Ventilator days (total)
Oxygen days (total)
Length of stay (days)

1251-1500 grams:

Number of infants born
Number of infants ventilated
beyond six hours
Number of ventilated
infants survived
Ventilator days (total)
Oxygen days (total)
Length of stay (days)

1501-2000 grams:

Number of infants born
Number of infants ventilated
beyond six hours
Number of ventilated
infants survived
Ventilator days (total)
Oxygen days (total)
Length of stay (days)

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2001-2500 grams:	Number of infants born	_____
	beyond six hours	_____
	infants survived	_____
	Ventilator days (total)	_____
	Oxygen days (total)	_____
	Length of stay (days)	_____
2501-3000 grams:	Number of infants born	_____
	beyond six hours	_____
	infants survived	_____
	Ventilator days (total)	_____
	Oxygen days (total)	_____
	Length of stay (days)	_____
3001-3500 grams:	Number of infants born	_____
	beyond six hours	_____
	infants survived	_____
	Ventilator days (total)	_____
	Oxygen days (total)	_____
	Length of stay (days)	_____
3501-4000 grams:	Number of infants born	_____
	beyond six hours	_____
	infants survived	_____
	Ventilator days (total)	_____
	Oxygen days (total)	_____
	Length of stay (days)	_____
4001-4500 grams:	Number of infants born	_____
	beyond six hours	_____
	infants survived	_____
	Ventilator days (total)	_____
	Oxygen days (total)	_____
	Length of stay (days)	_____
4501-5000 grams:	Number of infants born	_____
	beyond six hours	_____

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NOTICE OF PROPOSED AMENDMENTS

5001 PLUS:	Number of ventilated infants survived	_____
	Ventilator days (total)	_____
	Oxygen days (total)	_____
	Length of stay (days)	_____

	Number of infants born	_____
	Number of infants ventilated beyond six hours	_____
	Number of ventilated infants survived	_____
	Ventilator days (total)	_____
	Oxygen days (total)	_____
	Length of stay (days)	_____
Incidence of Neonatal Complications:		
	Pulmonary air leaks	_____
	Necrotizing enterocolitis	_____
	Retinopathy of Prematurity	_____
	Intraventricular hemorrhage	_____
	Grade I & II	_____
	Grade III & IV	_____
	Periventricular leukomalacia	_____
	Bronchopulmonary dysplasia	_____
	Neonatal Sepsis	_____
	Respiratory Distress Syndrome	_____
	Persistent Pulmonary Hypertension of the Newborn	_____
	Meconium Aspiration Syndrome	_____
	Neonatal Surgeries	_____
	Seizures	_____
	5 minute Apgar <7	_____

D. OUTCOME STATISTICS

All neonatal deaths are to be counted by the hospital of birth regardless of place of death. Neonates born in emergency rooms are to be counted by the hospital of birth.

1. Maternal Deaths:
 (Attach documentation of joint case review meeting and assigned disposition of mortality for each death.)
 (Standardized Neonatal Mortality Rate and Standardized Perinatal Mortality Rate. This

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- information should be obtained from the most current Perinatal Health Status Reports.)

2.

Standardized Neonatal Mortality Rate:

3.

Standardized Perinatal Mortality Rate:

(Attach documentation of joint case review meetings and assigned disposition of the mortalities.

Give synopsis of action taken on deaths disposed as potentially avoidable.)

II. STAFF

A. List the names and titles of directors/chairperson:

(Attach CV of Medical Directors

where appropriate identify subspecialty board.)

Full Board

Sub-board

Certified

Maternal – Fetal

Y/N

Y/N

Y/N

Neonatology

Y/N

Y/N

Y/N

Obstetric

Y/N

Y/N

Y/N

FP/GP

Y/N

Y/N

Y/N

Anesthesia

Y/N

Y/N

Y/N

Obstetric Anesthesia

Y/N

Y/N

Y/N

Pediatric

Y/N

Y/N

Y/N

OB/Gyn Residency Program

Y/N

(if applicable)

Pediatric Residency Program

Y/N

(if applicable)

Perinatal Fellowship Program

Y/N

Neonatal Fellowship Program

Y/N

Pediatric Surgery

Y/N

Y/N

Y/N

Pediatric Neurosurgery

Y/N

Y/N

Y/N

Pediatric Radiology

Y/N

Y/N

Y/N

Pediatric Cardiology

Y/N

Y/N

Y/N

Pediatric Cardiac Surgery

Y/N

Y/N

Y/N

Pediatric Anesthesiology

Y/N

Y/N

Y/N

Pediatric Ophthalmology

Y/N

Y/N

Y/N

Pediatric Nephrology

Y/N

Y/N

Y/N

Pediatric Medical Genetics

Y/N

Y/N

Y/N

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Pediatric Orthopedics Y/N Y/N

Pediatric Otolaryngology Y/N Y/N

Pediatric Pulmonology Y/N Y/N Y/N

Pediatric Hematology Y/N Y/N Y/N

Pediatric Endocrinology Y/N Y/N Y/N

Pediatric Gastroenterology Y/N Y/N Y/N

B. Staff Available

On-Call In-House 24 hours/day

Obstetrics

Neonatology

OB Anesthesia

Maternal / Fetal

C. Nursing

(List the names, titles, and credentials of nursing staff, as required for this section, with privileges in the Departments of Obstetrics and Pediatrics. Attach CV of Director of Nursing.)

Director of Nursing (Maternal / Child Nursing)

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Director of Nursing (NICU / NNN)

Certified Nurse Midwife / Midwives

Clinical Specialist/Nurse Practitioners - Neonatal and Obstetrics

Transport Coordinators

Neonatal

Maternal / Fetal

Allied Health Staff

Radiology Director

Genetics Director

Respiratory Therapy Director

Licensed Social Worker

Registered Dietitian

Director of Laboratory

Family Care Coordinator

Dedicated Pharmacist

D. Transport Statistics

YEARS

1. Number of maternal transfers/transports do not include return transfers/transports):

into institution

out of institution

in Network

out of Network

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS2. Number of neonatal transfers (do not
include return transfers):

into institution _____
out of institution _____
in Network _____
out of Network _____

3. Number of in-born infants less than

1250 grams transferred out
(state disposition of above infants not
transferred): _____

E. Transfer Information (Please attach the information requested in this
section):

1. Maternal:

a. List conditions for which maternal patients were transferred
(latest year only): _____

b. List hospitals to which maternal patients were transferred
(latest year only): _____

c. Number of maternal transfer patients refused and reasons for
refusal: _____

2. Neonatal:

a. List conditions for which neonates were transferred (latest
year only): _____

b. List hospitals to which neonates were transferred (latest
year only): _____

c. Number of neonatal transfer patients refused and reasons for
refusal (latest year only): _____

F. Anesthesia

1. Is 24-hour anesthesia available in-house? Y N

If yes, who (anesthesiologist, nurse anesthetist) _____

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If anesthesia is on-call, response time: _____

2. Location C/Section performed _____
in OR suite on obstetrical level
in OR suite on surgery level

3. Length of time required for start-up of C/Section _____

G. Education

1. Documentation of in-service education programming provided: Y/N
Brief description, dates, and attendance: _____

2. Documentation of fetal monitoring and neonatal resuscitation
programs provided. Brief description, dates, and attendance: _____

3. Documentation of C/Section Reviews: _____

H. Developmental Follow-up Program

Briefly describe your developmental follow-up program, and
include the name of the Director of this program and the length
of follow-up. _____

Explain arrangements for integrating Early Intervention Programs
with the discharge planning process and developmental follow-up
program. _____

I. Continuous Quality Improvement (CQI)

Briefly describe CQI Activities specific to
Maternal/Fetal/Neonatal Medicine. _____

J. Perinatal Centers

1. Provide documentation of educational activities sponsored by the
Center for Network hospital and community health agencies. _____

2. Provide documentation of morbidity and mortality reviews with
Network hospitals. _____

3. Provide documentation of Network Continuous Quality Improvement
(CQI) activities. _____

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

to be completed by the site visit team and the Directors of the Regional Perinatal Network

Level of Designation Applied for: Level I Level II Level III

HOSPITAL: _____
CITY: _____

DESCRIPTION OF GEOGRAPHIC AREA
SERVED: _____

PERINATAL CENTER DATE OF SITE VISIT: _____

MEMBERS (titles and affiliated institution) OF SITE VISIT TEAM

Please use data from previous three calendar years: 19 19 19

I. Statistics

A. Maternal Data

1. Number of obstetrical beds:

a. Antepartum

b. Labor/Delivery

EDR/EDRP

Alternative birth center

C-Section

Delivery

c. Intensive Care

2. Total number of deliveries more than 39 weeks

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3. Percent of vaginal deliveries

19 19 19

spontaneous

forceps

vacuum extraction

4. Percent of C-Sections

a. Primary

a. Repeat

5. Number of Vaginal Birth After Cesarean (VBAC)

attempts

successes

6. Percent of inductions

7. Percent of augmentations

8. Number of maternal transfers/ transports (do not include return transfers)

into institution

out of institution

B. Neonatal

1. Number of nursery beds:

Normal newborn

Intermediate/special care

NICU

2. Total number of neonates delivered (in born)

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DEPARTMENT OF PUBLIC HEALTH

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NOTICE OF PROPOSED AMENDMENTS

24--3 weeks
31--4 weeks
35--6 weeks

[illegible]

— 6 + — 6 + — 6 +

Neonatal-Mortality-500-gms
per-1000-births

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PDS-CAT-007-a
AIRMAIL-KO-JO-DWARD-E

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SNAW-9E

$\frac{d}{dt} \left(\frac{\partial L}{\partial v^j} - p_j \right) = 0$

~~SECRET~~

WD-005-7

[illegible]

60-70
70-80

	ventilated beyond 6 hours	Number of ventilator-days
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0001-106

SEI81067-STATISTICS

1. **История** – это наука о прошлом, о развитии человеческого общества и культуры.
 2. **Объект** – изучает деятельность человека и общества в прошлом.
 3. **Методы** – исторический анализ, историческое описание, историческое объяснение.
 4. **Значение** – помогает понять настоящее и будущее, формирует гражданскую позицию.
 5. **Связь с другими науками** – география, биология, физика, химия, математика, литература, искусство.
 6. **Историческое сознание** – способность воспринимать и осмысливать исторические события.
 7. **Историческая память** – способность помнить и передавать исторические знания.
 8. **Историческое образование** – процесс формирования исторического сознания и памяти.
 9. **Историческое воспитание** – процесс формирования гражданской позиции.
 10. **Историческое исследование** – процесс поиска и осмысливания исторических фактов.
 11. **Историческое знание** – результат исторического исследования.
 12. **Историческое наследие** – совокупность исторических ценностей и достижений.
 13. **Историческое наследие** – совокупность исторических ценностей и достижений.
 14. **Историческое наследие** – совокупность исторических ценностей и достижений.
 15. **Историческое наследие** – совокупность исторических ценностей и достижений.

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 9-08-67
 5-NOV-67

Petal-Mortality-20-wks-gest-per
1000-births

1001-1250-gms

Neonatal-Mortality-(per-1000-live
births)

1251-1500-gms

3. --PerinataI-Mortality-4-500-qms-per

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2001-2500-gms

more than 2500-gms

6. Comments (Attach additional pages if necessary)-----

HIV--SWAPP

As list the names, titles, and telephone numbers of
directors/chairpersons:

Maternal-Petal	Full time	Board Certified
-----	Y/N	Y/N
Obstetrics	Y/N	Y/N
-----	Y/N	Y/N
PP/GP	Y/N	Y/N
-----	Y/N	Y/N
Anesthesia	Y/N	Y/N
-----	Y/N	Y/N
Obstetric-Anesthesia	Y/N	Y/N
-----	Y/N	Y/N
Neonatology	Y/N	Y/N
-----	Y/N	Y/N
Pediatrics	Y/N	Y/N
-----	Y/N	Y/N
OB-GYN-residency program (if applicable)	Y/N	Y/N

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-----	Y/N	Y/N
Pediatric-residency program (if applicable)	Y/N	Y/N
-----	Y/N	Y/N
Perinatal-Fellowship program	Y/N	Y/N
-----	Y/N	Y/N
Neonatal-Fellowship program	Y/N	Y/N
-----	Y/N	Y/N

B. Staff-active-in-perinatal-care:

Give # only:

	Board Certified	Non-Board Certified
	Full-time	Part-time
Maternal-Petal	-----	-----
Obstetrics	-----	-----
PP/GP	-----	-----
Anesthesia	-----	-----
OB-Anesthesia	-----	-----
Neonatology	-----	-----
Pediatrics	-----	-----
On-Call	-----	-----
Staff-Available	-----	-----
Obstetrics	-----	-----
Neonatology	-----	-----
OB-Anesthesia	-----	-----
NURSING	-----	-----

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List the names, titles, contact telephone numbers and credentials (i.e. BSN, MS, etc.) of nursing staff (as required below) with privileges in the Department of Obstetrics and Pediatrics:

Director of Nursing
(OB-Maternal/Child)

Director of Nursing
NIGU/NSN

Certified Nurse-Midwife

Clinical Specialist-Neonatal

Clinical Specialist-Maternal-Petal

Transport-Coordinator-Neonatal

Nurse-Anesthetist

Additional Staff

Transport-Coordinator-Maternal-Petal

Additional Staff

E: ABLEB-HBAIWH-SWAPP

List the names, titles, contact telephone numbers and credentials of additional allied health staff members with privileges in the Departments of Obstetrics and Pediatrics (if applicable):

Radiology Director:

Genetic Director:

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Respiratory Therapy Director:

Licensed Social Worker:

Registered Dietitian:

Director of Laboratory:

Family Care Coordinator/Follow-Up Coordinator:

III--TRANSFER INFORMATION

A: Maternal

1: List conditions for which maternal patients were transferred (latest year only)

2: List hospitals to which maternal patients were transferred (latest year only)

3: Number of maternal transfer patients refused and reasons for refusal

B: Neonatal

1: List conditions for which neonates were transferred (latest year only)

2: List hospitals to which neonates were transferred (latest year

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NOTICE OF PROPOSED AMENDMENTS

only}

3. Number-of-neonatal-transfer-patients-refused-and-reasons-for-refusal-(latest-year-only)

IV--Descriptive-Data

A. Cesarean-Section

i. Anesthesia

Is-24-hour-anesthesia-available-in-house?-Y/N

If-year-who-(anesthesiology-nurse-anesthetist) -----
if-anesthesia-is-on-call-response-time: -----

2. Location-C-Section-performed ----- in-OR-suite-on-obstetrical
floor ----- in-OR-suite-in-surgery

3. Length-of-time-required-for-start-up-of-C-Section

B. Education

i. Brief-description-and-dates-of-in-service-education-programs-for
obstetrical-pediatric-nursing-and-respiratory-therapy-staff
members--(Use-additional-pages-as-necessary.)

2. Describe-on-going-fetal-monitoring-and-neonatal-receusitation-
State-staff-members-providing-receusitation-services--State
their-qualifications-and-training--(Use-additional-pages-as
necessary.)

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3. Provide-documentation-of-on-going-morbidity-and-mortality-review
and-C-Section-review.

C. Describe-growth-and-development-follow-up-program---list---staff
members-title-and-credentials-length-of-follow-up-etc.

B. Provide---documentation---of---appropriate-laboratory-services---(how
arrangement-made-for-emergency-lab,etc.)---See-perinatal---guidelines
for-standards-of-response-time,hours-available,staffing,etc.

B. Specific-for-Level-III-facility---Are-Services-Available-for:

Ophthalmology Y/N

Neonatal-surgery Y/N

Genetic-counseling-and-diagnostic-services Y/N

Intensive-cardiac-services Y/N

Intensive-Neurological-services Y/N

Community-nursing-follow-up-referral
coordination Y/N

Level-II-ultrasound Y/N

P. Specific-for-Perinatal-Centers:

i. Provide-documentation-of-educational-activities-provided-for-
network-hospitals-and-community-health-agencies.

2. Provide-documentation-of-systematic-morbidity-and-mortality
reviews-with-network-hospitals.

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Section 640. EXHIBIT B Instructions for Completing Maternal Discharge Record
The following section describes the data elements to complete the Maternal Discharge Record.

Medicaid Recipient Number:

Enter client's existing Medicaid recipient number.

Medicaid Pending:

Check box (yes) if Medicaid has been applied for and is pending.

Social Security Number:

Enter client's social security number.

Referring Hospital Name and City:

Enter the name and city of the discharging hospital.

Hospital Code:

Enter the code of the referring hospital.

Medical Record Number:

Enter the patient number used by your hospital which number is unique to this patient. This number is usually assigned by the business office.

Cornerstone Number:

IDPH/Local Health Agency use.

Date of Admission:

Enter the date the patient was admitted to the hospital.

Race:

Check the appropriate box. If a patient does not consider herself as belonging to any of the three racial groups, type or write the preferred designation alongside "Race."

Hispanic:

Check the appropriate box. Indicate "Hispanic" if the patient identifies herself with that ethnic group.
NOTE: Mark both "Race" and "Hispanic" for all Hispanic patients. Hispanic persons may belong to any race.

County of Residence:

Print the name of the county in which the patient resides.

County Code:

Enter the county code, if known.

Patient's Last Name:

Print the name of the patient.

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First Name, M.I.:

Enter the birth date of the patient.

Date of Birth:

Husband's Last Name, First Name:

Print the name of the patient's husband if she is married.

Patient's Maiden Name:

Print the maiden name of the patient. Enter the maiden name even when it is identical with the last name.

Marital Status:

Check the appropriate box.

Patient's Telephone Number:

Enter the Patient's home telephone number, including area code.

Patient's Street Address:

Enter apartment number, if any, house number, street, city, state and zip code of the patient.

Gravida:

Enter the total number of pregnancies, including the present pregnancy.

Para:

F: Number of full term births
P: Number of premature births
A: Number of abortions, spontaneous and induced
L: Number of living children

Blood Type:

Enter the blood group (O, A, B, or AB) and the RH type (positive or negative).

HbsAG Status:

Indicate positive or negative for hepatitis B surface antigen. When positive, or reactive, indicates HBV infected at the present time with the ability to pass the disease to other people.

EDC:

Enter the estimated month, day, and year of confinement.

Prenatal Care Began:

Enter the number of completed weeks of gestation at which the patient began prenatal care. If prenatal records are not available, enter the estimated weeks of gestation based on patient

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recall.

Prenatal Visits: Enter the total number of prenatal visits the patient had.

Reproductive History: Check the box or boxes for all items that apply.

Reasons for Referral: Check the box or boxes for all items that apply.

Discharge Date: Enter the month, day, and year the patient was discharged from the hospital.

Blood Pressure: Enter the blood pressure of the patient at discharge.

Height: Enter the height in feet and inches of the patient.

Weight: Enter the weight in pounds of the patient at discharge.

Family Planning: Check the appropriate box.

Patient Delivered During This Admission: Check the appropriate box.

Type and Date of Delivery: If the patient delivered during this admission, indicate the date of delivery and whether the delivery was vaginal, cesarean section, or other, i.e., ectopic, hydrotamion mole.

Was Infant High Risk: If the patient delivered during this admission, indicate whether the infant required care other than normal newborn.

Infant's Condition: If the patient delivered during this admission, indicate the infant's sex, birth weight and Apgar scores.

Major Hospitalization: During list all major medical and/or surgical treatments that the patient underwent while hospitalized (i.e., C-Section,

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mechanical ventilation, etc.).

Discharge Briefly describe any treatments and medications (i.e., prescriptions, diet, restricted activity) prescribed for the patient at discharge.

Other Concerns: Enter any additional information that may assist the local health nurse in providing appropriate follow-up services to this patient.

Physician Providing Follow-up Care: Physician providing follow-up care to mother, include address and telephone number.

Hospital Nurse Contact: Enter name and telephone number of hospital nurse who can answer questions, if necessary.

Referral to Community Services: If the patient has been referred to any community service agency, check appropriate box(es).

Contact Person's Name: Print the name of a friend, relative or other person with a stable address who would know how to get in touch with the patient.

Relationship: Describe the relationship (friend, mother, pastor, etc.) of the contact person to the patient.

Telephone Number: Enter the telephone number of the contact person.

Street Address, City, Zip Code: List the complete address of the contact person.

Second Contact Person, Relationship and Telephone Number: Print name of another contact person who lives at a different address than above. Include name, relationship, and telephone number.

LRN Visit If the patient has been informed that a local public health nurse will visit her home, check the "yes" box, otherwise check "No."

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Local Health Nurse
Agency Name:

Enter the name of the local health nurse agency to which the patient was referred for follow-up services. The Department will provide a list of the agencies and the areas they serve.

Local Health Nurse
Agency Code:

Enter code.

Street Address, City, Zip
Code:

Complete address of LHN agency.

Signature:

The person completing the medical information should sign the form.

Date:

Enter date the form is completed.

Referring Hospital

Enter the name and city of the hospital from which the mother was transferred or identified. If the mother was identified from the Perinatal Center's information, enter the name of the Perinatal Center. Hospital--Do not enter the code; it will be entered at BPH.

Name and city

Perinatal Center Name

Print the name of the Perinatal Center. Do not enter the code; it will be entered at BPH.

and Code

Patient ID Number

Enter the patient number used by your hospital, which is unique to each admission. This number is usually assigned by the business office and may be different from the medical record number.

Patient's Last Name

Print the name of the patient.

First Name, M.I.

Date of Birth

Enter the birth date of the patient.

Family Case Number

Do not enter; it will be entered at BPH.

Date of Admission

Enter the date the patient was

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admitted to the Perinatal Center:

Race

Check the appropriate box--if a patient does not consider herself as belonging to any of the three racial groups--type or write the preferred designation alongside "Race".

County of Residence

Print the name of the county in which the patient resides. Do not enter the code; it will be entered at BPH.

Patient's Maiden Name

Print the maiden name of the patient if known. Enter the maiden name even when it is identical with the last name.

Marital Status

Check the appropriate box.

Hispanic

Check the appropriate box--indicate Hispanic if the patient identifies herself with that ethnic group--if no information is available, check "N/A" not available.

NOTE--Be sure to mark both "Race" and "Hispanic" for all patients. Hispanic persons may belong to any race.

Patient's Telephone Number

Enter the patient's home phone number including area code.

Patient's Street Address

Enter apartment number, if any, house number, street, city, state and zip code of the patient.

Husband's Last Name

Print the name of the patient's husband if she is married.

First Name

Primary Care

Physician's Name

Print the name of the physician who referred the patient to the Perinatal Center--if the physician at the Center--if all obstetric care was delivered in that facility.

Attending Physician at

Print the name of the physician caring

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Perinatal-Center
for--the-patient-at-the--Perinatal Center:

Nurse-Contact-at Perinatal-Center
Print-the-name-of-the-Perinatal-Center nurse-who-can-be-contacted-regarding the-patient-by-the-public-health-nurse making-home-visits-to-the-patient:

Telephone
Enter--the--telephone--number--of--the nurse--contact:

Gravida
Enter--the--total--number--of--pregnancies including--the--present--pregnancy:

Para
P--Number--of--full-term--births
P--Number--of--premature--births
A--Number--of--abortions, spontaneous and--induced
E--Number--of--living--children

If--the--mother--delivered--during--this hospital--stay--the--newborn--is--to-be included--in--P--or--A--the--newborn--is to-be--included--in--E--if--alive--at--the time--of--the--mother's--discharge--from the--Perinatal--center:

Blood-Type
Enter--the--blood--group--(O--A--B--or--AB) and--the--RH--type--(positive--or negative):

BBC
Enter--the--estimated--monthly--day,--and year--of--confinement:

Prenatal-Care-Began
Enter--the--number--of--completed--weeks--of gestation--at--which--the--patient--began prenatal--care--if--prenatal--records are--not--available--enter--the--estimated weeks--of--gestation--based--on--patient recall:

Prenatal-Visits
Enter--the--total--number--of--prenatal visits--the--patient

had:

Weight-Gain
Enter--the--total--weight--gain--during Pregnancy:

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Significant-Reproductive History
Check-the-box-or-boxes-for-all-items which-apply--(Note--"SSA"--is--infant small-for-gestational)

age:

Complications-of-Present Pregnancy
Check-the-box-or-boxes-for-all-items which-apply:

Discharge-Date
Enter--the--month--day--and--year--the patient--was--discharged--from--the Perinatal-Center:

Blood-Pressure
Enter--the--blood--pressure--of--the patient--at--discharge:

Weight
Enter--the--weight--in--pounds--of--the patient--at--discharge:

Height
Enter--the--height--of--the--patient--at discharge:

Family-Planning
Check-the-appropriate-box:

Patient-Delivered-During This-Admission
Check-the-appropriate-box:

Type-and-Date-of-Delivery
If--the--patient--delivered--during--this admission--indicate--the--date--of delivery--and--whether--the--delivery--was a--vaginal--delivery--cesarean-section, or--other--(e.g., spontaneous delivery, ectopic, hydrotamion, etc.)

Was-Infant-High-Risk
If--the--patient--delivered--during--this admission--indicate--whether--the--infant was--admitted--to--the--high-risk-nursery:

Infant's-Condition
If--the--patient--delivered--during--this admission--indicate--the--status--of--the infant--upon--the--mother's--discharge:

Major-Treatment-During Hospitalization
List--all--major--medical--and/or--surgical treatments--which--the--patient--underwent while--hospitalized--(e.g., toxicology, magnesium-sulfate-therapy--G-Section, mechanical-ventilation, etc.):

treatments/prognosis
Briefly-describe--any--treatments--(e.g.,

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Medications-at-Discharge

prescriptions, diet, restricted activity, prescribed, for the patient upon discharge.

Other Concerns

Enter any additional information which may assist the local health nurse in providing appropriate follow-up services to this patient.

Referral to Community

if the patient has been referred to any community service agency, check appropriate boxes:

Services

Contact Person's Name

Print the name of a friend, relative or other person who would know how to get in touch with the patient.

Relationship

Describe the relationship (friendly, mother, pastor) of the contact person to the patient.

Telephone Number

Enter the telephone number of the contact person.

Street Address-City
Zip Code

List the complete address of the contact person.

Patient Informed of
IDH-Visit?

If the patient has been informed that a local public health nurse will visit their home, check the "yes" box; otherwise check the "No."

Local Health Nurse
Agency Name

Enter the name of the local health nurse agency to which the patient was referred for the follow-up services. IDPH will provide a list of such agencies and the areas they serve. Do not enter the code; it will be entered at IDPH.

Street Address-City
Zip Code

List the complete address of the IDH agency.

Signatures

The person completing the medical information should sign the form.

Date

Enter the date the form is completed.

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 640. EXHIBIT B Instructions for Completing the Report of Local Health Nurse, Maternal-Prenatal

INSTRUCTIONS FOR COMPLETION OF INFANT REPORT
OF LOCAL HEALTH NURSE

Please Note: This form is only for statistical/tracking information for Illinois Department of Public Health (IDPH). The Cornerstone Physical Assessment-Child and Denver II will be the assessment tools.

Infant's last name:

Last name of infant.

Infant's first name:

First name of infant.

Sex:

male/female/unknown

Unknown indicates sexual ambiguity.

Birth Date:

Infant's date of birth.

Cornerstone ID #:

Number assigned to infant by Cornerstone.

Patient ID number:

The patient number given by the hospital to each infant which is unique to each admission. Found on the Infant Discharge Record (IDR).

Infant Classification:

APORS:

Check box if infant discharge record (APORS) received from hospital.

Genetics:

Check box if referred to genetics/genetics services.

Both:

Check box if both APORS and Genetics.

Street address, apartment, city, zip code

Address of infant: house number, street, apartment, city, zip code.

Local health

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Agency:

Name of health department or agency responsible for providing high risk follow-up.

Agency code:

IDPH code number of health department or agency responsible for providing high risk follow-up.

Hospital of delivery:

Hospital of infant's birth. Reporting the highest level of care and responsible for completing infant Discharge Record.

Reporting hospital code:

IDPH code number of reporting hospital.

Chronological age:

Age of infant in weeks (during the first year of life) then in months, calculated from date of birth.

Corrected age:

Age of infant in weeks based on gestational age at birth (see IDR). To determine corrected age at time of visit, subtract the gestational age from 40 weeks, then subtract this difference from the chronological age (weeks) at the time of the visit.

Mother, last name:

Last name of mother.

Mother, first name:

First name of mother.

Mother, maiden name:

Maiden name of mother.

Date of visit:

Date of visit to family by Local Health Nurse.

Visit number:

Number of times infant has been seen by Local Health Nurse.

Date case closed:

Enter date the Local Health Nurse closed the case for follow-up.

Case closed with visit:
without visit:

Home visit made at closure.
Closed without a home visit.

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Reason for closure:

Circle appropriate reason case closed for all infants closed with and without visit.

Completed program:

Infant received 6 visits or more during the first 24 months of life.

Infant died:

Infant died after discharge from hospital.

Unable to locate:

Three unsuccessful attempts were made to locate infant. Attempts may include telephone contact; seeing the client in the home, clinic, school; and least preferable, by mail.

Refused visit:

Family refused home visit by nurse.

Services no longer needed:

Infant has minor anomaly (i.e., skin tag, anomaly of nails) that does not require follow-up.

Moved:

Family has moved out of area served by local health department. Refer to health department in other area.

Other:

Case closed for reason other than those listed above. Specify reason.

Discharge diagnoses/additional:

Record up to 5 diagnoses. IDR diagnoses first, then additional diagnoses, if any.

ICD-9 Code:

For IDPH use only. IDPH will enter ICD-9 Code for each diagnosis.

Drug toxicity:

Check box if infant was diagnosed with drug toxicity.

Opioid:

If positive for drug toxicity, check all that have been identified.

Barbiturate:Cocaine:Cannabis:

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Mixed:Not stated:Other:Newborn screening:Include drug if known.Check box if newborn genetic/metabolic screening has been completed.Genetic screening:Check box if infant was screened later for any genetic assessed condition.Genetic counseling:Check box if family received information concerning genetics.Physical assessment:Check box if you (the nurse visiting the family) completed a physical assessment on this visit. The Cornerstone physical assessment is expected on each visit, and will be documented on your agency's records.Additional data:Height:Height measured in inches.Weight:Weight measured in pounds and ounces.Head circumference:Circumference of head measured in centimeters.Hearing:Based on gross evaluation during physical exam or as a result of formal testing.normal:Within normal limits.suspect:Possible hearing impairment.impaired:Definite impairment.in treatment:Active treatment for hearing impairment; or corrected with treatment.

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Vision:Based on gross evaluation during physical exam or as a result of formal testing.normal:Within normal limits.suspect:Possible visual impairment.impaired:Definite impairment.corrected with surgery:corrected with lens:legally blind:Determined by formal testing.Denver II:normal:No delays and a maximum of one caution.suspect:Two or more cautions and one or more delays.untestable:Refusal scores on one or more items completely to the left of the age line or on more than one item intersected by the age line on the 75% to 90% area. Rescreen in 1 to 2 weeks.Support service referrals:Infant referred to one or more services. Check as many as apply.Audiology testingDepartment of Children and Family Services (DCFS)Developmental testingDivision of Specialized Care for ChildrenEarly InterventionGenetic counseling/diagnosis

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Home HealthNutritional servicesOccupational therapyPhysical therapySocial servicesSupport groupWIC/nutritionOther

Please specify

Signature of Nurse completing this form.

Send original copy of form to:

Illinois Department of Public Health
535 West Jefferson Street
Springfield, IL 62761

Copies: Canary copy: reporting hospitalPink copy: local health agencyGoldenrod copy: primary care physicianPatient-Last-Name-and-First-NamePatient-Last-Name-and-First-NamePerinatal-CenterName-of-perinatal-centerPatient-Case-Number

Copy this number from the Maternal
Discharge Record (MDR)-Number
includes the center (CTR)-code and
the Patient ID-Number

Patient-Address

Home address of patient--house
number, street, city, state, zip code
and county--Enter apartment number
if applicable

BirthdateDate of patient's birth (See MDR)-Phone

Home phone number of patient
including area code--if there is no
phone, enter N/A--if an alternate
phone number is listed, note location

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(e.g., mother-in-law, etc.)

Immediately above the phone number.

Date of Visit

Date of visit to family by community nurse.

Attending Physician

Indicate the name of the physician who is managing the patient's case. This may be the local physician or the physician at the Perinatal Center.

Local Health-Nurse-Name

Name of nurse making home visit.

Local Health-Agency

Name of the local public health nursing follow-up agency.

Agency Code

Four digit code assigned to your agency by the Division of Family Health.

Case-Closed

If patient refuses any visits or this is the last visit to be made to the patient, check the appropriate box indicating when the case is being closed. Check with visit--if case is closed during a home visit. Check without visit--if case is closed during an initial phone contact or when an initial home visit attempt is made--if case will remain open. Leave blank.

With Visit
Without Visit

If Case Closed, Reason for Closure

No Longer Need Services

Check this option if the patient is stable and linked with all appropriate medical and support services.

Unable to Locate

Check this option if the nurse was unable to find the patient at the address listed on the MDR, at other locations after contacting the contact person listed on the MDR, and after additional efforts to locate the patient have been made.

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Refused-Visit

Check-this-option-if-family-refuses home-visits-by-the-nurse.

Moved

Check-this-option-if-family-has-moved out-of-the-geographic-area-served-by the-local-health-agency;-Whenever possible-refers-client-to-the appropriate-follow-up-agency-for-the geographic-area-to-which-they-have moved.

Other

Specify-reason:

Gravida

Enter-the-total-number-of-times-the patient-has-been-pregnant-including the-current-pregnancy.

Para

P

Enter-the-number-of-pregnancies carried-to-full-term.

P

Enter-the-number-of-pregnancies delivered-prematurely.

A

Enter-the-number-of-pregnancies ending-in-abortion-(both-spontaneous and-induced).

E

Enter-the-number-of-living-children

EPC

Enter-the-estimated-date-of confinement-(i.e.,due-date).

Complications-of-Present-Pregnancy

Note-complication/diagnosis-recorded on-the-Maternal-Discharge-Record.

Medical-Assessment
Physical-Status

B/P

Enter-B/P-obtained-at-time-of-home visit;-If-less-than-140/90;-or within-the-desired-B/P-range-noted-on the-Maternal-Discharge-Record;-record as-adequate;-if-the-B/P-is-greater than-this-record-as-inappropriate and-note-action-taken-(e.g.,-MB notified-by-PHN;-patient-advised-to

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contact-MB);

Fetal-Heart-Tones-(FHT's)

Enter-rate-of-fetal-heart-tones-if taken-at-time-of-home-visit;-If-they are-less-than-120;-greater-than-160;-irregular-or-absent;-note-as inappropriate-and-note-action-taken (e.g.,-MB-notified);

Reflexes/BPR's

Enter-reflexes-obtained-if-tested-at time-of-home-visit;-if-hyper-reflexic;-enter-as-inappropriate-and note---action---taken---(e.g.,-MB notified);

Edema

if-no-edema-is-noted;-record-as appropriate;-if-edema-is-presently note-severity;-location-and-action taken-(e.g.,-MB-notified;-patient advised-to-contact-MB);

Contractions

if-no-contractions-are-noted-or reported-at-time-of-home-visit;- record-as-appropriate;-if-negotations-are-noted-or-reported;-record their-frequency;-duration-and strength-as-well-as-the-action-taken (e.g.,-MB-notified);

Vaginal-Discharge

if-no-abnormal-vaginal-discharge-is noted-or-reported-at-time-of-home visit;-record-as-appropriate;-if abnormal-discharge-is-presently-note appearance-and-amount-as-well-as action-taken-(e.g.,-MB-notified);

Fetal-Activity

if-patient-reports-level-of-fetal activity-to-be-consistent-with previous-levels;-record-as appropriate;-if-patient-reports-fetus to-be-more-or-less-active-than-usual or-reports-no-movement;-record-as inappropriate;-noting-type-of-change and-when-it-was-noted-as-well-as action-taken-(e.g.,-MB-notified);

Urine-Test

Record-results-of-urine-tests-if taken-at-time-of-home-visit;-if-no

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protein, glucose or acetone are found, record as appropriate. If any test is positive, note what test is positive and the level of positivity as well as action taken (e.g.: MB notified; patient advised to contact MB).

Compliance with Treatment

Diet/Nutritional Status

Record the patient's compliance with special diet as noted on the Maternal Discharge Record or general dietary fluid intake if not on a special diet; if compliant with discharge diet or eating a well-balanced meal for a pregnant woman, record as appropriate; if not compliant or not well-balanced, record as inappropriate; noting deficiency and action taken (e.g.: dietary instructions reviewed; patient advised to contact MB).

Activity/Rest

Record the patient's compliance with special activity/rest orders as noted on the Maternal Discharge Record or general pattern of rest/activity if no restrictions ordered; if compliant with discharge orders or getting adequate rest and moderate levels of exercise, record as appropriate; if not compliant with discharge orders or not getting adequate rest/activity, record as inappropriate; noting deficiencies and action taken (e.g.: activity reviewed; physician notified by PHN; patient advised to contact MB).

Medications/Treatment

Record compliance with medications or special treatments ordered on Maternal Discharge Record; if compliant, record as appropriate; if not compliant, record as inappropriate; noting deviation; if no medications or special treatments were ordered, enter "N/A" in the "appropriate"

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column:

Social Assessment

Support Systems

Record the level of family and/or community support the family is receiving; if the support is adequate to meet their needs, record as appropriate; if support is inadequate, note deficiencies and record as inappropriate; Record actions taken (e.g.: referred to homemaker services made).

Finances

Record the financial status of the in regard to meeting basic needs (i.e., food and shelter) as well as their medical expenses; if adequate, record as appropriate; if inadequate, note deficiency and record as inappropriate; Note action taken (e.g.: referred to BPH).

Housing

Note the general adequacy of the living environment in regard to cleanliness, general safety, temperature, etc.; if adequate, record as appropriate; if inadequate, note deficiency and record as inappropriate; Note action taken (e.g.: referral to Department of Human Services).

Next Prenatal Appointment

Record the date of the next medical prenatal visit.

Provider

Record the name of the physician, clinic with whom the next prenatal appointment is scheduled.

Further Social Health-Nurse-Gate

Record when the next public health nursing visit will be made; if no further visits are planned, but patient is provided with information for contacting the agency should she desire further visits, this information should be recorded; if the case is closed and no further

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contact will occur the "Reason for Closure" at top of form should be completed.

Referral-to-Community-Services

Community support service referrals made since hospital discharge--Do not include referrals made during hospital stay or at time of discharge as noted on the MBR.

Public-Aid

Check--if--family--referred--to--the Department--of--Public-Aid.

Mental-Health

Check--if--patient--referred--to--local mental-----health-----agency-----for evaluation/counseling.

Social-Services

Check--if--referred--in--a--social--service agency---for---counseling---or---other support.

WIC/Nutrition

Check--if--referred--to--WIC--(Women, Infants--and--Children)--or--another nutrition program.

Prenatal-Education

Check--if--patient--referred--to--a--local prenatal-education program.

Homemaker-Services

Check--if--family--referred--to--a homemaker service for assistance with shopping, housework, child-care, etc.

None-Made

Check--if--patient--does--not--require--any additional support service at present time.

Other-Specify

Check--if--patient--has--been--referred--to a service/agency not listed on this form--Specify name of agency and type--of--service--for--which--the referral was made.

Comments

Record--any--supplementary--narrative information as appropriate.

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Distribution--of--Copies--The--copies--of--the--report--should--be--distributed--as follows:

Original--white-copy
 Green-Copy
 Pink-Copy
 Condensed-Copy

HPH
 Perinatal-Center
 Local-Health-Nurse-Agency
 Primary-Care-Physician

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

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NOTICE OF PROPOSED AMENDMENTS

Section 640. APPENDIX E Report of Local Health Nurse, Maternal--Postnatal (Repealed)

Section 640, EXHIBIT A A Local Health Nurse, Maternal--Postnatal Form (Repealed)

REPORT OF LOCAL HEALTH NURSE

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

[illegible]

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Section 640, EXHIBIT B Instructions for Completing the Report of Local Health Nurse, Maternal-Prenatal (Repealed)

Patient-Last-Name and-First-Name	Patient-Last-Name-and- first-name	Without-Visit	the-case-is-being-closed. Check-with-visit-if--case--closed during-a-home-visit. Check-without-visit-if-case-is closed-during-an-initial-phone contact-or-when-an-initial-home visit-attempt-is-made.-If case-will-remain-open,-leave blank.
Birthdate	Date-of-patient's-birth-(See-MDR)-		
Patient-Case-Number	Copy-this-number-from-the-Maternal Discharge-Record-(MDR).--Number includes--the-Center-(CER)-code-and the-Patient-ID-Number.		
Patient-Address	Home-address-of-patient--house number--street--city--state--zip code--and--county--Enter-apartment number-if-applicable.	If-Case-Closed--Reason-for-Closure	Check-this-Option-if-the-patient is--stable--and--linked--with--all appropriate-medical--and--support services.
Phone	Home-phone-number-of-patient including-area-code--if--there--is no--phone--enter--N/A--if--an alternate-phone-number-is-listed, note-location-(e-g., mother-in-law, etc.)-immediately-above--the-phone number.	No-longer-Need-Services	Check-this-Option-if-the-nurse-was unable--to--find-the-patient-at-the address-listed-on-the-MDR--at-other locations--after--contacting--the contact-person--listed-on-the-MDR and--after--additional--efforts--to locate-the-patient-have-been-made.
Date-of-Visit	Date-of-visit-to-family by-community-nurse	Unable-to-locate	Check-this-Option-if-family-refuses home-visits-by-the-nurse.
Attending-Physician	Indicate-the-name-of-the-physician who-is-managing-the-patient's-case. This-may-be-the-local-physician-or the-physician-at-the--Perinatal Center.	Family-Refused-Visit	Check-this-Option-if-family-has moved-out-of--the--geographic--area served-by-the-local-health-agency-- Whenever--possible--refer-client-to the--appropriate--follow-up-agency for-the-geographic--area--to-which they-have-moved.
Local-Health-Nurse-Name	Name-of-nurse-making-home-visit.	Moved	Specify reason:
Local-Health-Agency	Name-of-the-local-public-health nursing-follow-up-agency.	Other	if-patient-had-vaginal-delivery (spontaneous,-forceps-or-vacuum extraction)-record-as-vaginal
Agency-Code	Four-digit-code-assigned-to-your agency--by--the--Division-of-Family Health.	Type-of-Delivery Vaginal	if--patient-had-a-C-Section--record as-Caesarean
Case-Closed	if-patient-refuses-any-visits-or this-is-the-last-visit-to-be-made to-the-patient, check-the appropriate-box-indicating-when	Cesarean-Section	if-patient-has-a-spontaneous
With-Visit		Section?	
		Other?-Specify	

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abortion-induced-abortion-ectopic pregnancy-or-hydatid-mole? record-as-other-specifying-type-of-outcome?

Delivery-Date
Record-date-on-which-the-pregnancy ended---regardless---of---type---of delivery?

Infant-Status-at-Time-of-Home-Visit

Alive/linked-with-Well-Child-Care

Alive/Still-Hospitalized

Deceased-Prior-to-Discharge

Deceased-After-Discharge

Alive/Not-Yet-Linked-with

Medical-Care

Not-Applicable

NB:---if-the-patient-delivered-a-multiple-pregnancy-check-whether-ever-boxes? that-apply-noting-the-infant-by-birth-order-(ie:1-#2-etc.)-after-the appropriate-entries.

Health-Assessment

B/P

Enter-B/P-obtained-during-home visit?

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P Enter-temperature-obtained-during home-visit?

P Enter-pulse-obtained-during home-visit?

R Enter-respiration-obtained during-home-visit?

NB:---if-any-findings---are---abnormal? note-deviations-and-actions-taken (e.g.: M-B? notified-by-PHN? patient-advised-to-contact-M-B?)?

Treatment-Compliance

Enter-the-patient's-level-of compliance-with---the---treatments and/or---medications---ordered-on-the Maternal-Biobehavior-Record---if compliant---record-is-appropriate? if---noncompliant---record---as inappropriate-noting---the-specific deficiencies---and---record-actions taken-(e.g.: WP-notified-by-PHN? patient-advised-to-contact-MB?)?

Breasts

Lactating

if-breastfeeding-enter-the condition-of-the-patient's-breasts and---level---of---success---with breastfeeding---if---there---are---no problems---with---the---breasts---and breastfeeding-is-going-well-record as---appropriate---if---there---are problems-with---the---breasts-(e.g.: cracked-nipples---or---with---the breastfeeding---record---as inappropriate-noting---the-problems and-record-actions-taken-(e.g.: care-of-sore-nipples---reviewed? patient-advised-to-see-MB-as-soon as-possible---patient-referred-to lactation-support-system?)?

Non-lactating/Bottle

if-bottle-feeding-record the-condition-of-the-breasts-and level---of---success---with---bottle feeding---if---there---are---no problems with-the-breasts-and-bottle-feeding is---going---well---record---as

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appropriate--if there are problems with---the---breasts---(e.g.: engorgement)---or---with---bottle feeding---record---as---inappropriate noting---the---problems---and---record actions---taken---(e.g.:---care-of engorged-breasts-reviewed);

NB:---if information is--based--on--patient--report--rather--than--visual inspection--indicate so--under--comments;

Involution of Fundus

Enter the status of uterine involution:---if nontender--and at expected level--of involution--for degree---postpartum---record---as appropriate---if the uterus is tender---and/or---subinvolved--for degree---postpartum---record---as inappropriate--noting---the problems and--record actions taken--(e.g.:---NB and--record--by PHN; patient advised to contact NB as soon as possible);

Lochia

Enter the color and amount of the lochia:---if the color and amount of the lochia are within normal limits for degree---postpartum---record---as appropriate---if the amount and/or color are not normal--for degree postpartum--record as inappropriate noting---the problems---and--record actions taken--(e.g.:---NB notified by PHN; patient advised to contact NB as---soon--as---possible)---if information is--based--on--patient report---rather---than---visual inspection---indicate---so---under comments;

Incision/Episiotomy

Enter the status of the abdominal incision---for C-Sections---or---the episiotomy---if present---if the incision/episiotomy---is---healing well---record---as---appropriate---if the---incision/episiotomy---is inflamed---oozing---and/or---the edges are---separated---record---as inappropriate--noting---the problems

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and---actions---taken---(e.g.:---NB notified;---patient---advised---to contact---NB---as---soon---as---possible); if information is based on patient report---rather---than---visual inspection---indicate---so---under comments;

Enter the status of the extremities observed at the time of home visit: this---should---include---physical appearance and checking for Homan's sign---if the extremities---are normal---record as appropriate---if there appears to be a pphlebitis record---as inappropriate--noting the problems and actions taken--(e.g.:---NB notified)---if information is based on patient report rather than visual inspection---indicate---so under comments;

Urinary Elimination

Enter the patient's report of urinary elimination:---if---patient reports no problems and does not appear to be distressed,---record as appropriate---if patient reports problems--(e.g.:---frequency) and/or appears to be distressed,---record as inappropriate--noting---problems and action taken--(e.g.:---NB notified; patient advised to contact NB as soon as possible);

Bowel Elimination

Enter the patient's report of bowel elimination:---if---patient reports no problems,---record as appropriate---if patient reports problems--(e.g.:---constipation) record---as---inappropriate--noting problems---and action taken--(e.g.: high---fiber---diet---and---fluids discussed;---patient---advised---to contact NB);

Nutrition

Enter the patient's report of her

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nutritional status--if the patient is eating--a well-balanced meal or is compliant with the special diet ordered on the Maternal Discharge Record--record as appropriate--if diet is not well-balanced or not compliant--record as inappropriate noting deficiency and action taken (e.g., dietary instructions reviewed);

Rest

Enter the patient's report of the amount of rest she is getting--if adequate--record as appropriate--if inadequate--record--as inappropriate noting problems and action taken (e.g., options for modifying--daily--routines explained);

Exercise

Enter the patient's report of her general level of activity--and her compliance with routine postpartum exercises--if adequate--record--as appropriate--if inadequate--record as inappropriate noting problems and action taken (e.g., routine postpartum exercises reviewed);

Adjustment to:

Parenthood

If the infant is living--enter the patient's status of adjustment to parenthood based on her report--and behavior--observed during the home visit--if there are no problems--record as appropriate--if problems are noted--reported--record--as inappropriate noting the problems and action taken (e.g., support systems reviewed);

Grief--if Infant Expired

if infant expired--or there was a nonviable pregnancy--outcome enter--the patient's level of grief based on her report--and behavior observed during the home visit--if her level of grief is appropriate

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for the post-death period--record as appropriate--if problems are identified--record as inappropriate noting problems and action taken (e.g., linked with counseling services)--All families should be linked with parent support groups unless they do not desire to be;

Social Assessment

Support Systems

Record the level of family and/or community support the family is receiving--if the support is adequate to meet their needs--record as appropriate--if support is inadequate--note deficiencies and--record--as inappropriate--Record--actions--taken--(e.g., referral to homemaker services made);

Finances

Record the financial status of the family in regard to meeting basic needs--(i.e., food--and shelter--as well as their medical expenses--if adequate--record as appropriate--if inadequate--note deficiency--and--record--as inappropriate--Note action taken (e.g., referred to BBA);

Housing

Note the general adequacy of the living environment in regard to

cleanliness--General--safety; temperature; etc.--if adequate--record--as appropriate--if inadequate note deficiency and record--as--inappropriate--Note action taken (e.g., referral to Department of Human Services);

Check off the type of

Family Planning

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contraceptive---method---used---if
refused---or---undecided---record-as
indicated.

Diaphragm

Check-if-patient-is/will-be-using
a-diaphragm.

Bella

Check-if-patient-is/will-taking
oral-contraceptives.

Natural-Family-Planning

Check-if-patient-is/will-be
using withdrawal-or--sympto-thermal
monitoring.

Foam/Condoms

Check-if-patient-is/will-be
using foam-and-condoms.

Male-Sterilization

Check-if-patient's-partner
has---had---or---plans-to---have--a
vasectomy.

Female-Sterilization

Check-if-patient-has-had-or-plans
to-have-a-tubal-ligation.

IUD

Check-if-patient-has-had-or-plans
to-have-an-IUD-inserted.

Refused

Check-if-patient-does-not
plan-to-use-any-family-planning
method.

Undecided

Check-if-patient-understands
all-family-planning-methods-but-is
undecided-as-to-which-method--if
any--she-will-use.

Other

Check-if-patient-plans-to-use
another-type-of-family-planning
method-----eg.---cervical---capr
contraceptive---film---etc.}---and
specify-method.

Further-Local-Health-Nurse-Care

Record-when-the-next-public
health-nursing-visit-will-be---made.
if--no--further-visits-are-planned
but--patient--is--provided--with
information--for--contacting--the
agency-should--she--desire--further

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visits---this-information-should-be
recorded---if-the-case-is-closed
and--no-further-contact-will-occur
the-Reason-for-Closure-at-top-of
form-should-be-completed.

Postpartum-Appointment

Check-off-whether-the-4-6-week
postpartum-appointment-has--been
completed-or-is-scheduled--if-very
pending---along-with-appointment
date.

Source-of-Ongoing-Medical-Care

Mother

Enter-the-source-of-ongoing
family-planning-and-health-care-for
the-patient.

Infant

Enter---the---source---of---ongoing
well-child---care-----if---no
arrangements---have---been---made
provide-the-family-with-information
on---resources---available---in---their
local-community.

Referral-to-Community-Service

Community-----support-----services
referrals
made-since-hospital-discharge---Be
not-include-referrals-made-during
hospital-stay-or---at-time-of
discharge-as-listed-on-the-MBR.

None-Made

Check-if-patient-does-not
require---any---additional-support
service-at-present-time.

Public-Aid

Check-if-family-referred
to-the-Department-of-Public-Aid.

Mental-Health

Check-if-patient-referred
to-a-local-health--agency---for
evaluation/counseling.

Social-Services

Check-if-referred-in-a-social
service-agency--for--counseling-or
other-support.

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REPORT OF LOCAL HEALTH NURSE
ILLINOIS DEPARTMENT OF PUBLIC HEALTH

Section	Report	Signature	Date
1. Name of Local Health Nurse	John Doe		
2. Name of Local Health Department	City of Chicago		
3. Name of Local Health Officer	John Doe		
4. Name of Local Health Board	City of Chicago		
5. Name of Local Health Committee	City of Chicago		
6. Name of Local Health Council	City of Chicago		
7. Name of Local Health Association	City of Chicago		
8. Name of Local Health League	City of Chicago		
9. Name of Local Health Club	City of Chicago		
10. Name of Local Health Society	City of Chicago		
11. Name of Local Health Union	City of Chicago		
12. Name of Local Health Alliance	City of Chicago		
13. Name of Local Health Federation	City of Chicago		
14. Name of Local Health Confederation	City of Chicago		
15. Name of Local Health League of Nations	City of Chicago		
16. Name of Local Health League of Women	City of Chicago		
17. Name of Local Health League of Youth	City of Chicago		
18. Name of Local Health League of Children	City of Chicago		
19. Name of Local Health League of Elders	City of Chicago		
20. Name of Local Health League of All	City of Chicago		

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(Source: Repealed at 24 Ill. Reg. _____, effective _____)

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Section 640. EXHIBIT B Instructions for Completing the Report of Local Health Nurse, Infant (Repealed)

Infant-Last-Name-and-First-Name

Print-the-infant's-last-name
and-first-name:

Circle-M-for-male-or-F-for-female:

Sex

Enter-the-date-of-infant's
birth-(See-IBR):

Birthdate

Patient-IB-Number
Copy-this-Patient-identification
number---from-the---infant---discharge
Record (IBR):

Street-Address-Apartment-Number
City-State

Print-the-home-address-of-infant:
house---number---street---apartment
number---city-and-zip-code:

Local-Health-Agency

Print-the-name-of-Health
department-or-agency-responsible-for
providing-high-risk-follow-up:

Agency-Code

Print-the-code-number-of-health
department/agency---making-follow-up
visits:

Hospital-of-Delivery

Enter-the-name-of-the-hospital:
of-infant's-birth---(See-IBR):

Reporting-Hospital

Enter-the-name-of-the-hospital
completing---the---infant---discharge
record:

Reporting-Hospital-Code

Do-not-enter-the-code
will-be-entered-at-IBR:

Chronological-Age

Enter-the-age-of-the-infant
in-weeks-or-months-calculated---from
the---date---of---birth---Age---in-weeks
should-be-used-during-the-first---year
of-life:

Corrected-Age

Enter-the-age-of-the-infant
in-weeks-based-on-gestational-age-at
birth---(see---IBR)---Subtract---the
gestational---age---from-40-weeks, then

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subtract---this---difference---from---the
chronological---age---at---the---time---of
visit:

Print-the-first-name-of-the-infant's
mother---(See-IBR):

Print-the-last-name-of-the
infant's-mother---(See-IBR):

Print-the-name-of-the-nurse
making-home-visit:

Enter-the-date-of-visit-to
family-by-community-nurse:

if-the-case-is-to-be-closed,
check-whether-a-home-visit---was---made
at-the-time-of-case-closure:

Check-this-option-if-all-5
visits (post-discharge, 6-, 12-, 18- and
24-months) or more have been made:

Check-this-option-if-infant
died-after-discharge-from-hospital:

Check-this-option-if-the-nurse-was
unable---to---find-the-infant/family-at
the-mother's-address---listed-on-the
IBR---at---other---locations---after
contacting---the-contact-person-listed
on---the---IBR---and---after---additional
efforts-to-locate---the---infant/family
have-been-made:

Check-this-option-if-family
refuses-home-visits-by-the-nurse:

Check-this-option-if-family-has-moved
out---of---the-geographic-area-served-by
the-local-health-agency---Whenever
possible---refer-client---to---the
appropriate-follow-up-agency-for-the
geographic-area-to-which---they---have
moved:

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Other	Check-if-the-infant-has-a minor---anomaly---(e.g.,---skin-tag anomaly-of---nails)---that---does---not require---follow-up---or---other-reason: Specify-reason:	Medication-Allergies	actions-to-promote-compliance- bist-any-allergies-evidenced by-infant:
Visit-Number	Check-the-appropriate-visit number---Check-interim-visit-box-if visit-is-in-addition-to-5-required visits-----PLEASE-----NORP---Contract agencies---must-complete-this-form-and submit-it-to-IDPH-for-all-visits-both regular---and---interim-----Health Departments---are-only-required---to complete---this---form-and-submit-it-to IDPH-for-5-required-visits:	Drugs-Added-to-Discharge-Regimen	bist-only-drugs-added-to-regimen since---hospital---discharge---or---since last---home-visit---(Medications prescribed-at-time-of-discharge-are listed-on-IDR):
Name-Primary-Care-M.D.:	Print-the-name-of-the-physician who-will-be---providing---primary---care for-infant:	Treatments/Assistive Devices-Added-to-Discharge-Regimen	bist-any-treatments/assistive devices-prescribed-by-physicians since---discharge---or---since-last-visit by-nurse:
Telephone	Enter-telephone-number-of primary-care-physician:	Genetic-Screening	Indicate-(yes-or-no)-whether there-is---a-family-history---(other children---parents---grandparents aunts---and-uncles)-of---any---genetic problems---if---yes---list-conditions that-apply:
Discharge-Diagnosis(es)	Enter-all-diagnoses-that are-listed-on-the-IDR---NORP---this item-should-be-completed-at-once---on the-first-infant-report-completed after-discharge:	Newborn-Screening	Indicate-(yes-or-no)-whether parents-know-it---required---screening for---any---genetic---diseases---(PHU hypothyroidism---galactosemia biotinidase-deficiency---congenital adrenal---hyperplasia-----and hemoglobinopathies)---was-completed-in the-hospital:
Present-Parental-Concerns	Print-a-narrative-description of---any-concerns-expressed-by-parents about-the-infant-or-family-situation. Usually-this-information-is-elicited at---the-beginning-of-the-visit-to assure-that-concerns-are---adequately addressed-in-a-timely-manner:	Nutrition	Enter-an-assessment-of-infants nutritional-----intake-----and appropriateness-for-age---include-any teaching---or---counseling---provided parents---if-family-has---nonpublic water-supply-check-if-water-has-been tested-for-nitrates:
Post-Discharge-Diagnoses/Major Unresolved-Discharge-Diagnoses	This-section-is-designed-for updating-diagnoses---enter-list diagnoses-made-since-discharge---or since-last-home-visit---list-also-any unresolved-discharge-diagnoses:	Elimination	Enter-an-assessment-of-elimination function-----including-----parental concerns-and-teaching-or---counseling provided:
Medications	Indicate-(yes-or-no)-whether family---is-giving-infant-medications as-prescribed---if-not-the-nurse-may indicate-her-recommendations-and/or	Sleep-Activity	Enter-an-assessment-of-infant's

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Parent/Infant Interaction

sleep/wake patterns and any teaching or counseling provided.

Enter an assessment of parent's ability to respond appropriately to infant--at each emotional--and developmental stage--Consider also infant's temperament and response to parents.

Family Coping

Enter an assessment of social supports available to family--in the home--and community--Enter an assessment of financial resources and family function.

Safety

Indicate any safety hazards in environment and teaching provided on accident prevention and use of car seat.

Immunizations

Indicate dates immunizations are given and by whom provided--if health--department--or--physician. Check if physician has recommended deferring--any--immunization--for medical reasons.

if a tuberculin skin test--is indicated--write in "TB-Skin-Test" after "Other-Specify"--and indicate date given and results (if known).

Physical Assessment

Height

Measure length and record in inches--plot on growth chart for corrected age--Check appropriate on Report Form--if between 5th and 95th percentile--Otherwise--check appropriate--if infant--is premature--plot weight for height on growth chart and check appropriate on Report Form--if weight for height is between 5th and 95th percentile--otherwise check as "inappropriate."

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Alternately--premature--infant growth charts may be utilized.

Weight

Enter weight in pounds--Plot on growth chart--according--to corrected age and check appropriate if between 5th and 95th percentile. Otherwise check "inappropriate." For premature infants, check as explained above under "height."

Vision Screen

Check appropriate if, after screening, vision appears normal. Check inappropriate if, after screening, there is uncertainty about infant's ability to see normally.

Hearing Screen

Check appropriate if, after screening, hearing seems normal. Check inappropriate if unsure of infant's ability to hear normally.

General Appearance

General appraisal of infant--Check whether normal--questionable--or abnormal--if questionable--or abnormal--describe findings--if questionable--or abnormal--describe recommendations/action--for follow-up.

Remaining Items on Physical Assessment

Continue with physical assessment checking appropriate when findings appear to be within normal limits--When findings are questionable or outside of normal limits, check "inappropriate" and describe findings in section below (describe inappropriate findings) by number.

Head Circumference

Enter size of infant's head at largest diameter in centimeters. After plotting head circumference on growth chart--at corrected age--check appropriate--if head circumference is between 5th and 95th percentile--Check "inappropriate" if

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greater-or-equal-to-96th-percentile
or-less-or-equal-to-4th-percentile

Developmental-Screening:
Reaction-Skills-and
Abilities-(RGA)
Select-the-RGA-age-closest
to-the-corrected-age-of-the
infant--Assess-the-developmental
milestones--for--that-age-and-place-a
check-in-the"yes"column--if--infant
has--achieved-a-milestone--Check-the
"no"box-if-infant-has-not-achieved
the-milestone:

Results-of-RGA-Screening

Normal

Check-"normal"--if-infant-has
achieved-all-developmental-milestones
for-his-age-group:

Questionable

If-infant-misses-one-or-more
items--for--his--age--group--check
questionable--Screen-at-next-lower
age-group--Rescreen-in-one-to-two
months-at-appropriate-age-level:

Referral

If-infant-cannot-complete-all
items--for--his--age--group--on
rescreening-in-one-to-two-months
refer--for--further-evaluation--and
check-referral:

Nursing-Care-Provided

If-any-additional-nursing-care-is
provided--it-may-be-recorded-in-this
section:

Plans-for-Additional-Nursing-Care

Putse-plans-for-care-may-be
documented-here:

Support-Service-Referral

Community-support-service-referrals
made--since-hospital-discharge
(referrals-made-at-or-before-time-of
hospital-discharge-are-listed-on-IBR)
or--since-last-home-visit--list-name
of--agency--and--date--of--next
appointment-to-assist-with-follow-up:

Developmental-Screening/
Testing

Check-if-infant-has-been-referred
to--another--agency-for-developmental
screening-or-testing:

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BGRS

Check-if-infant-has-been-referred
to-the-Department-of--Children--and
Family-Services:

BGRG

Check-if-infant-has-been-referred
to--the-Division-of-Services--for
Crippled-Children:

Genetic-Diagnosis-and/or
Counseling

Check-if-family-has-been-referred
for-genetic-diagnosis-and/or
counseling--(For--information--on
location-of-Services--contact-the
Genetic-Disease-Program-Division-of
Family-Health-IBR):

Home-Health

Check-if-infant-has-been-referred
for-home-health-services:

OP

Check-if-infant-has-been-referred
for-occupational-therapy:

PP

Check-if-the-infant-has-been-referred
for-physical-therapy:

Social-Services

Check-if-infant-has-been
referred-to-a-social-service-agency
for-counseling-or-other-support:

WIE/Nutrition

Check-if-infant-has-been
referred--to--WIC-(Women-Infants-and
Children)--or--another--nutrition
program:

0-2-Program

Check-if-infant-has-been-referred
to-a-0-2-(0-3)-program:

Other--Specify

Specify-if-referral-has-been
made-to-an-agency-not-listed-above:

Needed-but-Unavailable

Specify-type-of-service-needed-by
family--which-is-unavailable-within-a
reasonable-distance:

None-Made

Check-if-no-referrals-were-made:

(Source: Repealed at 24 Ill. Reg. _____)

effective

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Section 640. APPENDIX B Written Protocol for Referred/Transfer/Transport
referred/transfer/transport

Exhibit A Level I: Patients for consultation with
(Level III facility or Perinatal Center):

1) Maternal Conditions

A) Previous Pregnancy Problems:

- i) Premature infant
- ii) Perinatal death or mental retardation
- iii) Isoimmunization
- iv) Difficult deliveries
- v) Congenital malformations
- vi) Mid-trimester loss

B) Current Pregnancy Problems:

- i) Any medical disorder (e.g., diabetes, Diabetes mellitus, hemoglobinopathy, chronic hypertension, heart disease, renal disease)
- ii) Drug addiction
- iii) Multiple gestation
- iv) Intrauterine growth retardation
- v) Preterm labor less than or equal to 36 weeks
- vi) Postdate greater than or equal to 42 weeks
- vii) Third trimester bleeding
- viii) Abnormal genetic evaluation
- ix) Pregnancy induced hypertension

2) Neonatal Conditions

- A) Gestation less than or equal to 36 weeks, weight less than or equal to 2500 grams

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- B) Small-for-gestational age (less than 10th percentile)

C) Sepsis

D) Seizures

E) Congenital heart disease

F) Multiple congenital anomalies

G) Apnea

H) Respiratory distress

I) Neonatal asphyxia

J) Infants identified as having handicapping conditions or developmental disabilities which threaten life or subsequent development

K) Severe anemia

L) Hyperbilirubinemia, not due to physiologic cause

M) Polycythemia

3) Consultation and transfer to a Level III or Perinatal Center shall occur for the following conditions:

- A) Premature labor or premature birth less than 34 weeks gestation.
- B) Birthweight less than or equal to 2000 grams.

4) Exceptions:

- A) Exceptions to the standards of care set forth in this Part may be necessary based on patient care needs, current practice, outcomes, and geography in the regional perinatal network.
- B) Exceptions to the standards of care of this Part may be granted when the facility requesting an exception demonstrates that the staffing, equipment and quality of care (outcomes), are substantially equivalent to the standards and quality of care for any Level II or Level III facility in their Regional Perinatal Network.
- C) Such exceptions shall be negotiated between the applicant facility and their Perinatal Center. The applicant facility or the Perinatal Center may seek the advice and consultation of the Department, as well as the Perinatal Advisory Committee, to facilitate negotiations regarding exceptions to these standards of care. Any exception to the standards of care of this Part must be defined in the letter of agreement.
- D) The Department shall review all letters of agreement and modification of letters of agreement. The Department shall use the criteria

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described in Section 640.41(e)(2) in order to approve or deny approval of any provision of or any letter of agreement.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

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Exhibit C Level I: Maternal and Neonatal patients to be cared for at _____ hospital (level III facility of Perinatal Center)

1) Maternal

➤ The maternal patient with an uncomplicated current pregnancy.

2) Neonatal

➤ The neonatal patient greater than 34 weeks gestation or greater than 2000 grams without risk factors and infants with physiologic jaundice.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

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Exhibit D E Level II 1: Maternal and neonatal patients to be cared for at _____ hospital (Level III facility of Perinatal Center)

1) Maternal

- A) The maternal patient with uncomplicated current pregnancy.
- B) Normal current pregnancy although previous history may be suggestive of potential difficulties.
- C) Selected medical conditions such as mild hypertension or controlled thyroid disease where there is no increase in perinatal morbidity.
- D) Selected obstetric complications such as pre-eclampsia or premature labor greater than 34 weeks.
- E) Incompetent cervical os.
- F) Gestational Diabetes.

2) Neonatal

- A) Neonatal patients greater than 34 weeks gestation or greater than 1800 grams without risk factors.
- B) Mild to moderate respiratory distress (not requiring mechanical ventilation in excess of 6 hours).
- C) Suspected neonatal sepsis, hypoglycemia, neonates of diabetic mothers and post-asphyxia without life threatening sequelae.
- D) Nursing care of premature infants greater than 1800 grams who are other wise well.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

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- 1) Heading of the Part: Alcoholic Liquor Act
- 2) Code Citation: 86 Ill. Adm. Code 420
- 3) Section Numbers: Proposed Action:
420.80 Amendment
- 4) Statutory Authority: 235 ILCS 5/8-1
- 5) A Complete Description of the Subjects and Issues Involved: The regulations are modified to require that returns in which exemptions are claimed from tax with respect to sales of wine for sacramental purposes need only be accompanied by certifications covering such deliveries, rather than affidavits.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6956
- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit Corporations affected: Retailers making sales of wine for sacramental purposes

B) Reporting, bookkeeping or other procedures required for compliance:
Minimal

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C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 420

ALCOHOLIC LIQUOR ACT

Section

420.10	Gallage Taxes
420.20	Claims to Recover Erroneously Paid Tax
420.30	Shipments of Alcoholic Liquors Out of Illinois
420.40	Non-Beverage Alcoholic Preparations and Compounds
420.50	Non-Beverage Users of Alcoholic Liquors
420.60	Act Does Not Apply
420.70	Tax Provisions of Act Do Not Apply
420.80	Monthly Return
420.90	Books and Records
420.100	Carriers
420.110	Sales to Governmental Bodies
420.120	Warehousing of Liquors
420.130	Non-Beverage User's Books and Records
420.140	Tax-Free Sales of Alcoholic Liquor for Use Aboard Ships Operating in Foreign Commerce Outside the Continental Limits of the United States

AUTHORITY: Implementing and authorized by the Liquor Control Act of 1934 [235 ILCS 5/8-1].

SOURCE: Filed and effective June 17, 1958; codified at 8 Ill. Reg. 17910; amended at 14 Ill. Reg. 18083, effective October 18, 1990; amended at 15 Ill. Reg. 3498, effective February 21, 1991; amended at 24 Ill. Reg. _____, effective _____.

Section 420.80 Monthly Return

a) Requirement for Filing:

- 1) Each manufacturer and importing distributor of alcoholic liquor must file a return on the form approved and provided by the Department between the 1st and 15th day of each calendar month, covering transactions in alcoholic liquors during the preceding calendar month. Payment of the tax in the amount disclosed by the return shall accompany the return.
- 2) Returns must be sworn to and entries made opposite each item appearing thereon. If there is nothing to report on any particular item the word "None" should be inserted on that line. After a first return has been filed by any manufacturer or importing distributor, a return form will be mailed by the Department on or about the first day of each succeeding month to such manufacturer or importing distributor. However, it is the duty of each manufacturer and importing distributor to obtain

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forms, and failure to receive forms from the Department will not be an excuse for failing to file returns when and as required by the Act.

- 3) Each manufacturer or importing distributor is required to file a return for each month that his license is in full force and effect, irrespective of the fact that he may not have any tax liability to pay for that month.
- 4) In any case where business is permanently discontinued, or where a stock of alcoholic liquors has been sold in bulk and the taxpayer has gone out of business, such taxpayer should immediately notify the Department of this fact, and upon a proper showing by such taxpayer that his license has been canceled by the Illinois Liquor Control Commission, he will be permitted to discontinue filing monthly returns.
- 5) In completing the Liquor Revenue Return form, appropriate entries must be made in item 2-a of the stock account on the return by manufacturers of alcohol and spirits and by first and second class wine-makers. In the case of manufacturers of alcohol and spirits, this item shall include bottled alcoholic liquor produced by such manufacturer in Illinois and bulk alcoholic liquor for which a deduction is being claimed on any schedule accompanying the return. In the case of first and second class wine-making, this item shall include all wine (whether immediately bottled or not) produced by the wine-maker in Illinois. Wineries which are licensed as manufacturers, but not as first or second class wine-makers, do not report anything as manufactured in item 2-a.

- b) Schedules Accompanying Return of Manufacturer or Importing Distributor of Alcoholic Liquor:

- 1) As part of the monthly return of a manufacturer or importing distributor of alcoholic liquor, and to be completed and filed supplementary thereto in specified instances, the Department requires the completion and filing of the schedules described hereinbelow. The totals of the several columns on each of the schedules must be carried to the corresponding columns and entered on proper lines according to the schedule designation on the Monthly Return Form RI-26.

- 2) In every instance where a manufacturer or importing distributor is required, by any particular schedule, to make a report of alcoholic liquors manufactured, imported, stored on hand or held in warehouses, purchased or otherwise acquired, sold or otherwise transferred, used, bottled, blended, fortified or rectified by him, he shall, to comply with the provisions of the Act, also include in the appropriate schedule the alcoholic liquors manufactured, imported, stored on hand or held in warehouses, purchased or otherwise acquired, sold or otherwise transferred, used, bottled, blended, fortified or rectified by him as agent for others.

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- A) Schedule "A"—Alcoholic Liquors Imported Into This State. This schedule must be completed and filed monthly by each importing distributor who imports alcoholic liquors into this State. This schedule consists of a detailed itemization of such importations, and the importing distributor must include in it all such importations of alcoholic liquors, regardless of whether the merchandise is imported in bond or out of bond. The mere fact that a warehouse acting as agent for the importing distributor receives the merchandise and issues a warehouse receipt therefor does not relieve the importing distributor from reporting the transaction. All alcoholic liquors imported and stored in public or bonded warehouses, for the account of an importing distributor, must be reported by said importing distributor in this schedule at the time the alcoholic liquors are imported and receipt of the alcoholic liquors for the account of the importing distributor is acknowledged by the warehouse. This information may not be withheld until withdrawals of the alcoholic liquors from the warehouse are made. Items of this nature should be reported on Schedule "A" as importations into Illinois.

- B) Schedule "B"—Alcoholic Liquors Purchased Tax-Free in Illinois. In this schedule, manufacturers of alcohol and spirits report only bottled alcoholic liquors purchased tax-free, including transfers in bond covered by the issuance, transfer or negotiation of warehouse receipts. All other manufacturers and importing distributors, however, must report tax-free purchases of both bottled and bulk alcoholic liquors in this schedule, including transfers in bond covered by the issuance, transfer or negotiation of warehouse receipts. Bottled alcoholic liquors purchased tax-free and stored in public or bonded warehouses for the account of a manufacturer of alcohol and spirits and all alcoholic liquors purchased tax-free and stored in public or bonded warehouses for the account of other manufacturers (such as wineries) and importing distributors, must be reported in this schedule at the time of purchase, and such report may not be withheld until such alcoholic liquors are withdrawn from the warehouse.

- C) Schedule "G"—Alcoholic Liquors Purchased Tax-Paid. This schedule must be completed by manufacturers and importing distributors who purchase tax-paid alcoholic liquors.

- D) Schedule "C"—Tax-Free Sales in Interstate or Foreign Commerce. This schedule must be filed by manufacturers or importing distributors who claim deductions on the monthly return of gallonage of alcoholic liquors sold by them and shipped tax-free in interstate or foreign commerce, or delivered tax-free to ships for use outside the continental

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limits of the United States in foreign commerce as provided in Section 420.140. Manufacturers and importing distributors must include in Schedule "C" bulk (as well as all other) alcoholic liquors shipped tax-free in interstate or foreign commerce, or delivered tax-free to ships for use outside the continental limits of the United States in foreign commerce as provided in Section 420.140. In the case of the ship stores exemption in connection with foreign commerce, written statements as provided for in Section 420.140 must accompany this schedule.

- i) Each manufacturer who includes tax exempt sales of bulk alcoholic liquor in this schedule must verify that the quantity so sold has been included in his Liquor Revenue Return inventory.
 - ii) A separate Schedule "C" must be filed covering shipments into each state.
- E) Schedule "B"--Tax-Free Sales of Alcoholic Liquors to Licensed Manufacturers or Importing Distributors. This schedule must be filed by manufacturers or importing distributors who sell alcoholic liquors tax-free to other licensed manufacturers or importing distributors in Illinois. Each manufacturer, who includes in this schedule tax-free sales of bulk alcoholic liquors, must verify that the quantity so sold has been included in his Liquor Revenue Return inventory. Manufacturers and importing distributors must include in Schedule "B" tax-free sales and transfers of alcoholic liquors in bond, including alcoholic liquors covered by original, transferred or negotiated warehouse receipts.
- F) Schedule "B"--Sales of Alcoholic Liquors for Non-Beverage Purposes Without Payment of Illinois Gallonage Tax. This schedule must be filed by manufacturers and importing distributors who claim deductions on the monthly return for tax-free sales of alcoholic liquors made to holders of non-beverage user's licenses. Original permits or coupons permitting the tax-free purchase of alcoholic liquors for non-beverage purposes must accompany this schedule. This schedule must also be filed by manufacturers and importing distributors who claim deductions on the monthly return for tax-free sales of alcoholic liquors to the United States or to a foreign government, their departments, agencies or instrumentalities, for non-beverage purposes. Written statements, establishing the exempt character of such transactions, must accompany this schedule (see Section 420.110(b)). Each manufacturer, who includes in this schedule sales of bulk alcoholic liquors, must verify that the quantity so sold has been included in his Liquor Revenue Return inventory.

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- G) Schedule "J"--Production and Bottling Loss Record. Enter as this item all losses incurred in bottling alcoholic liquors carried in inventory in the Liquor Revenue Return at the time when such bottling loss occurs. Bottling losses will not be allowed as tax exempt unless accurate records are maintained and deduction is supported by Schedule "J", "Production and Bottling Loss Record." (See Section 420.90(e).)
- H) Other Deductions. Where manufacturers or importing distributors claim deductions on the monthly return for a gallonage of alcoholic liquors that may not be properly allocated to any of the schedules supplied by the Department, a blank sheet of paper may be used and entitled "Other Deductions," and the deductions claimed therein should be explained in detail and filed with the monthly return. Claimed exemptions from the tax will not be allowed at the time of audit unless supported by competent documentary evidence. For example, if alcoholic liquors are dumped for the purpose of destroying the alcoholic liquors, claimed exemption from the tax will not be allowed unless supported by an affidavit of a representative of this Department who witnessed the destruction of the alcoholic liquors. The licensee should retain copy of Form RI-57 or RI-58 witnessed by a representative of the Department. Each manufacturer, who includes in this schedule sales of bulk alcoholic liquors, must verify that the quantity so sold has been included in his Liquor Revenue Return inventory.
- I) Schedule "B"--Purchases of Bulk Alcoholic Liquors, Tax Unpaid, to be Used in Rectification, Bottling or Blending, or For Sale in Original Containers. This schedule must be filed by manufacturers of alcohol and spirits, and will consist of a detailed itemization of all purchases of alcoholic liquors in bulk only, to be used in rectification, bottling or blending, or for sale in original containers, with respect to which the Illinois Alcoholic Liquor Tax has not been paid. All such purchases of bulk alcoholic liquors must be included in this schedule irrespective of the fact that the alcoholic liquors are purchased in bond or imported in bond. The fact that a warehouse, acting as agent for such manufacturer, may receive the alcoholic liquors and issue a warehouse receipt therefor does not relieve the manufacturer from reporting the transaction. All bulk alcoholic liquors purchased tax-free in Illinois or imported into Illinois by a manufacturer of alcohol and spirits and stored in a public or bonded warehouse for his account must be reported in this schedule at the time such alcoholic liquors are purchased by such manufacturer and received by the warehouse, and this information may not be withheld

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withheld until such alcoholic liquors are withdrawn from the warehouse. This is an information schedule only and is not to be entered on the monthly return.

- J) Returned Merchandise. Alcoholic liquors returned by Illinois licensees to vendors from whom such alcoholic liquors were purchased, and who are located outside of the State of Illinois, must be reported the same as a sale in interstate commerce on Schedule "C".

- i) Alcoholic liquors returned to Illinois licensees by their customers located outside of the State of Illinois must be reported the same as an importation on Schedule "A".
- ii) When untaxed alcoholic liquors are returned to a manufacturer or an importing distributor, both parties being Illinois licensees, the person returning such liquors will report the transaction on Schedule "B", and the one receiving the returned liquors will report on Schedule "B".

- iii) Tax-paid alcoholic liquors returned to an Illinois manufacturer or importing distributor by someone in Illinois need not be scheduled by the person returning such liquors, but the person receiving the returned liquors must report the transaction on Schedule "G", the same as a purchase of tax-paid alcoholic liquor.

- iv) Sacramental Wine. All returns in which exemptions are claimed from the tax with respect to sales of wine for sacramental purposes must be accompanied by certifications affidavits covering each delivery, and statements signed by the minister, priest or rabbi showing the quantity of wine in each delivery together with a statement to the effect that the wine will be used only for sacramental purposes. (See Section 420.70.)

- c) Statement By Out-of-State Sellers Other Than Illinois Licensed Foreign Importers:

Out-of-State sellers, who are not licensed in Illinois as foreign importers, and who sell, to Illinois licensed importing distributors, beer, wine, or alcohol and spirits, which are located at some place in the United States outside Illinois, and which are shipped or otherwise delivered into Illinois, are required to file with the Department, within 15 days after the end of each month, on forms prescribed and furnished by the Department (Form RL-25), a statement setting forth the names and addresses of the persons in Illinois to whom beer, wine or alcohol and spirits were so sold and shipped or otherwise delivered during the preceding month and the respective quantities so sold and shipped or otherwise delivered.

- d) Information Returns From Illinois Licensed Foreign Importers:

- 1) The Department has determined it to be necessary, for the proper

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performance of its functions and duties under the Act, to require licensed foreign importers who are not also licensed in Illinois as importing distributors of alcoholic liquor to file a monthly information return with the Department. Such return must be filed by the 15th day of the month following the month for which such return is filed. Such return shall contain such information as the Department may reasonably require.

- 2) It is not necessary for such special foreign importer information return to be filed by any foreign importer who is also licensed in Illinois as an importing distributor of alcoholic liquor.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Automobile Renting Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 180

3) Section Numbers: Proposed Action:
180.125 Amendment

4) Statutory Authority: 35 ILCS 155

5) A Complete Description of the Subjects and Issues Involved: P.A. 91-193 added provisions to the Automobile Renting Occupation Tax to amend the definition of "gross receipts." The amendment provides that "gross receipts" excludes receipts received by an automobile dealer from a manufacturer or service contract provider for the use of an automobile by a person while that person's automobile is being repaired by the dealer and the repair is made pursuant to a manufacturer's warranty or other service contract. This regulatory amendment reflects that statutory change.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Melanie A. Jarvis
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Automobile Dealers

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B) Reporting, bookkeeping, or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

AUTOMOBILE RENTING OCCUPATION TAX
PART 180

SUBPART A: NATURE OF THE TAX

Section

- 180.101 Character And Rate Of The Tax
 180.105 Responsibility Of Trustees, Receivers, Executors Or Administrators
 180.110 Occasional Rental Transactions
 180.115 Habitual Rental Transactions

SUBPART B: GROSS RECEIPTS, AUTHORIZED DEDUCTIONS
AND NONTAXABLE TRANSACTIONS

Section

- 180.120 The Meaning of Gross Receipts
 180.125 Authorized Deductions from Gross Receipts
 180.130 Nontaxable Transactions
 180.135 Rentals for Re-rental

SUBPART C: RETURNS

Section

- 180.140 Monthly Tax Returns--When Due--Contents

SUBPART D: INCORPORATION BY REFERENCE

Section

- 180.145 Incorporation of Certain Retailers' Occupation Tax Regulations

AUTHORITY: Implementing the Automobile Renting Occupation and Use Tax Act [35 ILCS 155] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3]

SOURCE: Adopted and codified at 7 Ill. Reg. 9397, effective July 25, 1983; amended at 13 Ill. Reg. 9332, effective June 6, 1989; amended at 16 Ill. Reg. 4859, effective March 12, 1992; amended at 24 Ill. Reg. _____, effective _____.

Section 180.125 Authorized Deductions from Gross Receipts

- a) "Gross receipts" on which the Automobile Renting Occupation Tax must be computed do not include receipts from the following separately stated charges added to renters' billings:

1)a) charges added on account of the rentor's duty to collect the

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Automobile Renting Use Tax from rentees or passed on because of the rentor's liability under the Automobile Renting Occupation Tax or passed on because of the rentor's liability under an Municipal, County, Regional Transportation Authority or Metro East Mass Transit District Automobile Renting Occupation Taxes;

2)b) receipts from rentees in consideration of waivers of claims for loss or damage to automobiles rented;

3)c) receipts from separately stated charges for insurance;

4)d) receipts from separately stated charges for recovery of refueling costs;

5)e) receipts from any other separately stated charges which are not for the use of tangible personal property.

b) "Gross receipts" does not include receipts received by an automobile dealer from a manufacturer or service contract provider for the use of an automobile by a person while that person's automobile is being repaired by that automobile dealer and the repair is made pursuant to a manufacturer's warranty or a service contract where a manufacturer or service contract provider reimburses the automobile dealer pursuant to a manufacturer's warranty or a service contract and the reimbursement is merely made to recover the costs of operating the automobile as a loaner vehicle. [35 ILCS 155/2].

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Cigarette Tax2) Code Citation: 86 Ill. Adm. Code 4403) Section Numbers:
440.10 Proposed Action:
440.20 Amendment4) Statutory Authority: 35 ILCS 1305) A Complete Description of the Subjects and Issues Involved: P.A. 90-548 amended provisions of the Cigarette Tax Act to raise the tax rates to provide increases for education funding. The regulations also reflect, for historical purposes, earlier rate changes that occurred in 1993.6) Will this proposed rule replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed amendment contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate nor does it modify any existing State mandates.11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Melanie A. Jarvis
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:A) Types of small businesses, small municipalities and not for profit corporations affected: NoneB) Reporting, bookkeeping, or other procedures required for compliance:
NoneC) Types of professional skills necessary for compliance: None

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13) Regulatory Agenda on which this rulemaking was summarized: July 1999The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 440
CIGARETTE TAX ACT

Section	
440.10	Nature and Rate of Tax
440.20	Tax-How Paid
440.30	Tax-Who Liable For
440.40	Design
440.50	Tax Stamps--When and By Whom Affixed: License or Permit Required
440.60	Tax Stamps--How Affixed
440.70	Tax Stamps--Affixed Out of State
440.80	Transporter Permits
440.90	Tax Stamps--Purchase of; Cost; Discount
440.100	Returns Required: When Filed
440.110	Books and Records: Examination; Preservation
440.120	Unused Stamps and Meter Units: Sale of; Notice to Department
440.130	Mutilated Stamps
440.140	Tax Meters (Repealed)
440.150	Tax Meter Machine Settings (Repealed)
440.160	Vending Machines
440.170	Sales Out of Illinois
440.180	Sales to Governmental Bodies
440.190	Sample Packages of Cigarettes: Stamps or Other Evidence of Tax Payment Affixed
440.200	Claim for Replacement
440.210	Sale of Forfeited Cigarettes and Vending Machines
440.220	Tax-Free Sales of Cigarettes for Use Aboard Ships Operating in Foreign Commerce Outside The Continental Limits of the United States
440.230	Claims for Credit or Refund

AUTHORITY: Implementing and authorized by the Cigarette Tax Act [35 ILCS 130].

SOURCE: Filed and effective June 17, 1958; amended at 6 Ill. Reg. 2831 and 2834, effective March 3, 1982; codified at 8 Ill. Reg. 17912; amended at 13 Ill. Reg. 10678, effective June 16, 1989; amended at 14 Ill. Reg. 6794, effective April 19, 1990; amended at 15 Ill. Reg. 117, effective December 24, 1990; emergency amendment at 23 Ill. Reg. 9541 effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14748, effective December 8, 1999; amended at 24 Ill. Reg. _____, effective _____.

Section 440.10 Nature and Rate of Tax

- a) The cigarette tax is imposed upon any person who exercises the privilege of engaging in business as a retailer of cigarettes in this State, and is at the rate of 5-1/2 mills per cigarette sold or

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otherwise disposed of in the course of such business in this State. The proceeds from this tax are paid into the General Revenue Fund of the State Treasury.

- b) In addition, the Cigarette Tax Act [35 ILCS 130] ~~1997-CH-128, PAR-4531-et-seq~~ ~~1997-REV-STAT-~~ ~~1997-CH-128, PAR-4531-et-seq~~ (the Act), imposes a tax upon any person engaged in business as a retailer of cigarettes in this State at the rate of 1/2 mill per cigarette sold or otherwise disposed of in the course of such business in this State on and after January 1, 1947, and shall be paid into the Service Recognition Bond, Interest and Retirement Fund until that Fund contains sufficient money to retire all bonds payable from that Fund. Thereafter, the proceeds from the 1/2 mill tax are to be paid into the Fair and Exposition Authority Reconstruction Fund.
- c) ~~Effective December 1, 1985, in addition to any other taxes imposed by the Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at a rate of 4 mills per cigarette sold or otherwise disposed of in the course of such business in this State. Of this additional tax, \$9,000,000-00 of the monies received under the Act shall be paid each month into the Common School Fund. (Section 2(a)(2) of the Act).~~
- d) ~~Effective July 2, 1989, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 5 mills per cigarette sold or otherwise disposed of in the course of such business in this State (Section 2(a)(2) of the Act).~~
- e) ~~Effective July 14, 1993, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business in this State (Section 2(a) of the Act).~~
- f) ~~Effective December 15, 1997, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business in this State (Section 2(a) of the Act). All of the monies received from this additional tax shall be paid into the Common School Fund.~~
- g) ~~The total of these rates is 15 mills per cigarette; or 30¢ on a package of 20 cigarettes.~~
- h) ~~The impact of these taxes is declared by the Cigarette Tax Act to be imposed upon the retailer, with the taxes being required to be prepaid or pre-collected by the distributor for the purpose of convenience and facility only, and the amount of the tax shall be added to the price of the cigarettes sold by such distributor. Collection of the tax shall be evidenced by a stamp or stamps affixed to each original package of cigarettes, as provided in the Act and in this Part.~~
- i) ~~It shall be the duty of each distributor to collect the tax from the retailer at or before the time of the sale, to affix the required stamps and to remit the tax collected from retailers to the~~

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Department of Revenue (Department). Any distributor who shall fail to properly collect and pay the tax imposed by the Act shall be liable for the tax.

1) The amount of the cigarette tax imposed by the Act shall be separately stated, apart from the price of the goods, by both distributors and retailers, in all advertisements, bills and sales invoices.

2) The taxes so imposed are in addition to all other occupation or privilege taxes imposed by the State of Illinois, political subdivisions thereof or by any municipal corporation.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 440.20 Tax--How Paid

a) Except as provided in subsection (b) of this Section, payment of the tax imposed by the Act shall be evidenced by a stamp affixed to each "original package" of cigarettes, in a face amount equal to 29 15 mills for each cigarette contained in such package. Stamps are sold only to distributors by the Department at a discount (explained in more detail in Section 440.90 of this Part), when purchased according to law, in denominations evidencing payment of the tax on packages of 10, 20, 25 and 30 cigarettes. More than one stamp may be affixed to a single original package. For example, a 10 cigarette stamp and a 10 cigarette stamp may be affixed to a single original package of 20 cigarettes.

b) Illinois cigarette manufacturers who place their cigarettes in original packages which are contained inside a sealed transparent wrapper, and similar out-of-State cigarette manufacturers who elect to qualify and are accepted by the Department as distributors under Section 4b of the Act, shall pay the taxes imposed by the Act by remitting the amount thereof, less the discount explained in Section 440.90 of this Part, to the Department by the 5th day of each month covering cigarettes shipped or otherwise delivered in Illinois to purchasers during the preceding calendar month. Such manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper, before delivering such cigarettes or causing such cigarettes to be delivered in this State to purchasers, shall evidence their obligation to remit the taxes due with respect to such cigarettes by imprinting language to be prescribed by the Department on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, in such place thereon and in such manner as the Department may designate. Such imprinted language shall acknowledge the manufacturer's payment of or liability for the tax imposed by the Act with respect to the distribution of such cigarettes.

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Cigarette Use Tax Act

2) Code Citation: 86 Ill. Adm. Code 450

3) Section Numbers:
450.10
Amendment

4) Statutory Authority: 35 ILCS 135

5) A Complete Description of the Subjects and Issues Involved: P. A. 90-548 amended provisions of the Cigarette Use Tax Act to raise the tax rates to provide increases for education funding.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Melanie A. Jarvis
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping, or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 450

CIGARETTE USE TAX ACT

Section	Nature and Rate of Tax	Stamps and Meter	Unit--Sale of--Notice to
450.10	Tax Stamps--Affixed Out of State	Department--Mutilated Stamps--Tax Meter Machine Settings	Cigarettes Used Outside Illinois
450.20	Licenses and Permits--Bonds	Purchase of Cigarettes by Governmental Bodies for Use	Claim for Replacement
450.30	Reports and Returns	Sample Packages of Cigarettes--Stamps or Other Evidence of Tax	Collection Affixed
450.40	Books and Records	Sale of Forfeited Cigarettes and Vending Machines	Claims for Credit or Refund
450.50	Unused Stamps		
450.60			
450.70			
450.80			
450.90			
450.100			
450.110			
450.120			

AUTHORITY: Implementing and authorized by the Cigarette Use Tax Act [35 ILCS 135].

SOURCE: Filed and effective June 17, 1958; codified at 8 Ill. Reg. 13838; amended at 13 Ill. Reg. 10687, effective June 16, 1989; amended at 14 Ill. Reg. 6804, effective April 19, 1990; amended at 15 Ill. Reg. 122, effective December 24, 1990; amended by emergency rulemaking at 23 Ill. Reg. 9546, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14753, effective December 8, 1999; amended at 24 Ill. Reg. _____, effective _____.

Section 450.10 Nature and Rate of Tax

- a) The Cigarette Use Tax is imposed upon the privilege of using cigarettes in this State, and the tax rate is 29½ mills per cigarette so used or 58 cents on a package of 20 cigarettes.
- b) The tax must be collected by a distributor maintaining a place of business in this State or a distributor authorized by Section 7 of the Act to hold a permit to collect such tax, and the amount of the tax shall be added to the price of the cigarettes sold by such distributor and must be stated on the invoice as a separate item from the selling price of the cigarettes except when the purchaser is a Federal or foreign government agency or instrumentality (see Section 450.50 of this Part).
- c) Distributors who are not subject to the Cigarette Tax Act [35 ILCS 130] (the Act), but who are subject to the Cigarette Use Tax Act [35

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NOTICE OF PROPOSED AMENDMENTS

ILCS 135), must remit, to the Department of Revenue (the Department), the amount of Cigarette Use Tax to be collected by them through the purchase and affixation of tax stamps or meter impression units (where the use of meters is authorized by the Department) to any original package of cigarettes before delivering such cigarettes (or causing them to be delivered) in this State to any purchaser, or (in the case of manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper) by imprinting the language to be prescribed by the Department on the original package of cigarettes beneath such outside wrapper.

- 1) On and after July 22, 1999, no stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the Federal Cigarette Labeling and Advertising Act, 15 USC 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6 of the Cigarette Use Tax Act [35 ILCS 135], the Department shall revoke the license of any distributor that is determined to have violated this subsection (c)(1). A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this subsection that the label or notice has been removed, mutilated, obliterated, or altered in any manner.
- 2) On and after August 15, 1999, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (c)(1) and found in the possession of a distributor create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers, or tubes were stamped or imprinted in violation of the Cigarette Use Tax Act.
- 3) On and after September 1, 1999, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (c)(1) and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers, or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Use Tax Act.
- d) At the time of purchasing stamps from the Department or any person authorized by the Department, when purchase of the stamps is required by the Cigarette Use Tax Act or at the time when the tax which he has collected is remitted by a distributor to the Department without the purchase of stamps from the Department or any person authorized by the Department when that method of remitting the tax that has been collected is required or authorized by the Act, the distributor will be allowed a discount during any year commencing July 1 and ending the

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following June 30. The discount shall be equal to 1.75% of the amount of the tax payable under the Act up to and including the first \$3,000,000.00 paid by such distributor to the Department during any such year and 1.5% of the amount of any additional tax paid by such distributor to the Department during any such year.

- e) This discount is to cover the distributor's cost of collecting the tax.
- f) Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.

- g) On and after December 1, 1985, the Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes (i.e. a standard bank draft in which the distributor may post-date), and which shall be payable within 30 days thereafter: provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the Bond required under Section 4 of the Act, payable to the Department in an amount equal to 100% of such distributor's average monthly tax liability under the Act during the preceding calendar year or \$750,000.00, whichever is less. The Bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under the Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft. Prior continuous compliance taxpayers, as defined in Section 1 of the Act, are exempt from the bond requirements noted above. (Section 3 of the Act) For additional information concerning the exemption, refer to Section 3 of the Act.

- h) The Cigarette Use Tax collected by a distributor who is liable to collect and remit a like amount of tax with respect to the same cigarettes under the Cigarette Tax Act need not be remitted to the Department under the Cigarette Use Tax Act. In other words, the amount which the distributor is liable to collect and remit under the Cigarette Tax Act with respect to particular cigarettes is offset against the amount collected from the purchaser by such distributor under the Cigarette Use Tax Act with respect to the same cigarettes. Sections 3 and 10 of the Cigarette Use Tax Act permit this offset in order to avoid the double remittance of tax to the State on the same transactions in the case of sales of cigarettes in Illinois.

- i) In those instances in which a distributor is required to affix tax

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NOTICE OF PROPOSED AMENDMENTS

stamps or meter impressions to original packages of cigarettes under the Cigarette Use Tax Act, rather than under the Cigarette Tax Act, the provisions of the Part relating to the Cigarette Tax Act (86 Ill. Adm. Code 440) shall apply and are incorporated herein by reference.

- j) Where cigarettes are acquired for use in this State without Illinois tax stamps being affixed to the original packages thereof and without authorized tax imprints placed underneath the sealed transparent wrapper of such original packages, the user is required to remit the amount of the Cigarette Use Tax directly to the Department. Such tax should be remitted to the Department by the user within 3 days after he acquires such cigarettes.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Home Rule County Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 220

3) Section Numbers:
220.130 Proposed Action:
Amendment

4) Statutory Authority: 55 ILCS 5/5-1006

5) A Complete Description of the Subjects and Issues Involved: P.A. 90-689 added provisions to the Counties Code at 55 ILCS 5/5-1006 to enable home rule counties to impose, discontinue or change the rate of Home Rule County Retailers' Occupation Taxes twice a year rather than once. This rulemaking brings the regulation for the Home Rule County Retailers' Occupation Tax into conformance with the new statutory provisions.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Martha Mote
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
217/782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Only home rule counties.

B) Reporting, bookkeeping or other procedures required for compliance: Adoption of an ordinance or resolution is required.

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NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 220
HOME RULE COUNTY RETAILERS' OCCUPATION TAX REGULATIONS

Section
220.101 Nature of the County Retailer's Occupation Tax
220.105 Registration and Returns
220.110 Claims to Recover Erroneously Paid Tax
220.115 Jurisdictional Questions
220.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
220.125 Penalties, Interest and Procedures
220.130 Effective Date

AUTHORITY: Implementing the Home Rule County Retailers' Occupation Tax Law [55 ILCS 5/5-1006] and authorized by Section 39b29 of the Civil Administrative Code of Illinois [20 ILCS 2505].

SOURCE: Adopted August 5, 1959; amended at 3 Ill. Reg. 44, p. 185, effective October 19, 1979; codified at 6 Ill. Reg. 9681; amended at 15 Ill. Reg. 5783, effective April 9, 1991; amended at 24 Ill. Reg. _____, effective _____.

Section 220.130 Effective Date

An ordinance or resolution imposing or discontinuing or effecting a change in the rate of a Home Rule County Retailers' Occupation Tax shall ~~either~~ be adopted and a certified copy thereof filed with the Department on or before the first day of April ~~one~~, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of July ~~September~~ next following such adoption and filing, or be adopted and a certified copy filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following such adoption and filing. For this purpose, the date of the sale is deemed to be the date of the delivery of the property.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Home Rule County Service Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 230

3) Section Numbers: Proposed Action:
230.130 Amendment

4) Statutory Authority: 55 ILCS 5/5-1007

5) A Complete Description of the Subjects and Issues Involved: P. A. 90-689 added provisions to the Counties Code at 55 ILCS 5/5-1007 to enable home rule counties to impose, discontinue or change the rate of Home Rule County Service Occupation Taxes twice a year rather than once. This rulemaking brings the regulation for the Home Rule County Service Occupation Tax into conformity with the new statutory provisions.

6) Will this proposed rule replace an emergency rule currently in effect: No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part: No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Martha Mote
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Home rule counties.

B) Reporting, bookkeeping or other procedures required for compliance: Adoption of an ordinance or resolution is required.

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- C) Types of professional skills necessary for compliance: None
13) Regulatory Agenda on which this rulemaking was summarized: July 1999
The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 230
HOME RULE COUNTY SERVICE OCCUPATION TAX

Section
230.101
230.105
230.110
230.115
230.120
230.125
230.130

Nature of the Home Rule County Service Occupation Tax
Registration and Returns
Claims to Recover Erroneously Paid Tax
Jurisdictional Questions
Incorporation of Service Occupation Tax Regulations by Reference
Penalties, Interest and Procedures
Effective Date

AUTHORITY: Implementing the Home Rule County Service Occupation Tax Law of the Counties Code [55 ILCS 5/5-1007] and authorized by Section 39b29 of the Civil Administrative Code of Illinois [20 ILCS 2505].

SOURCE: Adopted May 21, 1962; codified at 6 Ill. Reg. 9683; amended at 15 Ill. Reg. 5796, effective April 9, 1991; amended at 24 Ill. Reg. _____, effective _____.

Section 230.130 Effective Date

An ordinance or resolution imposing or discontinuing or effecting a change in the rate of a Home Rule County Service Occupation Tax shall either be adopted and a certified copy thereof filed with the Department on or before the first day of April ~~June~~, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of July ~~September~~ next following such adoption and filing or be adopted and a certified copy filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following such adoption and filing. For this purpose, the date of the sale of service is deemed to be the date of the delivery, to the user, of the tangible personal property which the serviceman retransfers as an incident to service.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUE

PART 270
HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX

Section	
270.101	Nature of the Home Rule Municipal Retailers' Occupation Tax
270.105	Registration and Returns
270.110	Claims to Recover Erroneously Paid Tax
270.115	Jurisdictional Questions
270.120	Incorporation of Retailers' Occupation Tax Regulations by Reference
270.125	Penalties, Interest and Procedures
270.130	Effective Date

AUTHORITY: Implementing the Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1] and authorized by Section 39b1 of the Civil Administrative Code of Illinois [20 ILCS 2505].

SOURCE: Adopted August 1, 1955; amended at 3 Ill. Reg. 44, p. 189, effective October 19, 1979; amended at 6 Ill. Reg. 2836, 2839 and 2841, effective March 3, 1982; codified at 6 Ill. Reg. 9681; amended at 15 Ill. Reg. 3507, effective February 21, 1991; amended at 24 Ill. Reg. _____, effective _____.

Section 270.130 Effective Date

An ordinance imposing or discontinuing or effecting a change in the rate of a Home Rule Municipal Retailers' Occupation Tax shall either: be adopted and a certified copy thereof filed with the Department on or before the first day of April June, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of July September next following such adoption and filing; or be adopted and a certified copy filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following such adoption and filing. For this purpose, the date of the sale is deemed to be the date of the delivery of the property. The same rule applies when determining the effective date of an increase in the rate of a Municipal Retailers' Occupation Tax.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Home Rule Municipal Service Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 280

3) Section Numbers: Proposed Action:
280.130 Amendment

4) Statutory Authority: 65 ILCS 5/8-11-5

5) A. Complete Description of the Subjects and Issues Involved: P. A. 90-689 added provisions to the Municipal Code at 65 ILCS 5/8-11-5 to enable home rule municipalities to impose, discontinue or change the rate of Home Rule Municipal Service Occupation Taxes twice a year rather than once. This rulemaking brings the regulation for the Home Rule Municipal Service Occupation Tax into conformance with the new statutory provisions.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Martha Mote
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
217/782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Home rule municipalities.

B) Reporting, bookkeeping or other procedures required for compliance:
Adoption of an ordinance or resolution is required.

DEPARTMENT OF REVENUE
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- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999
- The full text of the proposed Amendments begins on the next page:

PART 280
HOME RULE MUNICIPAL SERVICE OCCUPATION TAX

Section
280.101
280.105
280.110
280.115
280.120
280.125
280.130

Nature of the Home Rule Municipal Service Occupation Tax
Registration and Returns
Claims to Recover Erroneously Paid Tax
Jurisdictional Questions
Incorporation of Service Occupation Tax Regulations by Reference
Penalties, Interest and Procedures
Effective Date

AUTHORITY: Implementing the Home Rule Municipal Service Occupation Tax Act [65 ILCS 5/8-11-5] and authorized by Section 39b1 of the Civil Administrative Code of Illinois [20 ILCS 2505].

SOURCE: Adopted May 21, 1962; amended at 6 Ill. Reg. 2845, 2848 and 2850, effective March 3, 1982; codified at 6 Ill. Reg. 9688; amended at 15 Ill. Reg. 6290, effective April 11, 1991; amended at 24 Ill. Reg. _____, effective _____.

Section 280.130 Effective Date

An ordinance or resolution imposing or effecting a change in the rate of a Home Rule Municipal Service Occupation Tax shall either: be adopted and a certified copy thereof filed with the Department on or before the first day of April ~~June~~, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of July ~~September~~ next following such adoption and filing; or be adopted and a certified copy filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following such adoption and filing. For this purpose, the date of the sale of service is deemed to be the date of the delivery, to the user, of the tangible personal property which the serviceman retransfers as an incident to service.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Home Rule Municipal Use Tax Imposed by Municipalities Having 2,000,000 or More Inhabitants
- 2) Code Citation: 86 Ill. Adm. Code 295
- 3) Section Numbers: Proposed Action:
295.120 Amendment
- 4) Statutory Authority: 65 ILCS 5/9-11-6
- 5) A Complete Description of the Subjects and Issues Involved: P. A. 90-689 added provisions to the Municipal Code at 65 ILCS 5/8-11-6 to enable home rule municipalities to impose, discontinue or change the rate of Home Rule Municipal Use Taxes twice a year rather than once. This rulemaking brings the regulation for the Home Rule Municipal Use Tax into conformance with the new statutory provisions.

6) Will this proposed rule replace an emergency rule currently in effect: No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part: No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Martha Mote
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Home rule municipalities.

B) Reporting, bookkeeping or other procedures required for compliance: Adoption of an ordinance or resolution is required.

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C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 295
HOME RULE MUNICIPAL USE TAX IMPOSED BY MUNICIPALITIES HAVING 2,000,000 OR MORE INHABITANTS

Section	Nature and Rate of the Tax
295.101	Items Covered
295.105	Incorporation of Use Tax Regulations by Reference
295.110	Penalties, Interest and Procedures
295.115	
295.120	Effective Date

AUTHORITY: Implementing the Home Rule Municipal Use Tax Act [65 ILCS 5/8-11-6] and authorized by Section 39b19 of the Civil Administrative Code of Illinois [20 ILCS 2505].

SOURCE: Adopted at 16 Ill. Reg. 7691, effective May 4, 1992; amended at 24 Ill. Reg. _____, effective _____.

Section 295.120 Effective Date

An ordinance or resolution imposing or discontinuing or effecting a change in the rate of a Home Rule Municipal Use Tax administered by the Illinois Department of Revenue shall either: be adopted and a certified copy filed with the Department on or before the first day of April, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of July next following such adoption and filing; or be adopted and a certified copy filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following such adoption and filing. When a given Home Rule Municipal Use Tax goes into effect, it applies to purchases made on or after the effective date of the Ordinance imposing the tax. For this purpose, the date of the purchase is deemed to be the date of the delivery of the property to the purchaser. The same rule applies when determining the effective date of an increase or decrease in the rate of a Home Rule Municipal Use Tax.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Pull Tabs and Jar Games Act

2) Code Citation: 86 Ill. Adm. Code 432

3) Section Numbers: Proposed Action:
432.160 Amendment

4) Statutory Authority: 230 ILCS 20

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is a result of Public Acts 90-536 and 90-808, which amend the Illinois Pull Tabs and Jar Games Act by increasing prize limits, ticket limits, ticket prices, and prize value limits.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, IL 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Certain persons conducting pull tabs and jar games under the Illinois Pull Tabs and Jar Games Act and persons participating in such games.

B) Reporting, bookkeeping, or other procedures required for compliance: Minimal

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C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 432

PULL TABS AND JAR GAMES ACT

Section

432.100 Definitions

432.110 Regular Licenses

432.120 Limited Licenses

432.130 Manufacturer's Licenses

432.140 Supplier's Licenses

432.150 Ineligibility for License

432.160 Restrictions and Limitations on the Sale of Pull Tabs

432.170 Imposition of Tax; Returns

432.180 Records; Audits

432.190 Denial, Suspension, or Revocation of Licenses; Criminal Sanctions

432.200 State - Local Relations

AUTHORITY: Implementing and authorized by the Illinois Pull Tabs and Jar Games Act [230 ILCS 20].

SOURCE: Emergency Rules adopted at 12 Ill. Reg. 11297, effective June 30, 1988, for a maximum of 150 days; emergency expired November 27, 1988; adopted at 13 Ill. Reg. 191, effective January 1, 1989; amended at 14 Ill. Reg. 6399, effective April 16, 1990; amended at 15 Ill. Reg. 10993, effective July 10, 1991; amended at 18 Ill. Reg. 11636, effective July 7, 1994; amended at 24 Ill. Reg. _____, effective _____.

Section 432.160 Restrictions and Limitations on the Sale of Pull Tabs

a) Licenses. No person or organization may sell pull tabs or advertise pull tabs for sale in Illinois without having a valid license to do so.

1) Licensed manufacturers may sell pull tabs only to licensed suppliers, licensed suppliers may sell pull tabs only to regular and limited licensees, and regular and limited licensees may sell pull tabs only to the public. A manufacturer or supplier may rely on its customers' representations that they are properly licensed (under the license numbers provided by the customers) unless the manufacturer or supplier has received notification from the Department that a particular person or organization does not have a valid license.

2) Regular and limited licensees may obtain pull tabs only from licensed suppliers. It is the responsibility of regular and limited licensees to ensure that all pull tabs which they obtain are marked with the name of the supplier on each pull tab.

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Regular and limited licensees are requested to notify the Department whenever they receive any printed material advertising the availability of pull tabs if no supplier's license number appears on the material. A supplier's license number will be in the form of the letters "PS" followed by a hyphen and one or more numerals. The notification to the Department, which may consist entirely of a copy of the printed material, should be addressed to the Illinois Department of Revenue, Office of Bingo and Charitable Games, P.O. Box 19480, Springfield, Illinois 62794-9480.

- b) Locations. A regular or limited licensee may sell pull tabs only at the locations stated on its license. Pull tabs may be sold only at the following locations:

1) *On premises owned or occupied by a licensed organization and used by its members for general activities* (Section 4(6) of the Act). "Premises" means a distinct parcel of land and the buildings thereon. Premises are "occupied" by an organization when the organization is using the premises for its general activities in accordance with a contractual right to possess the premises on a regular basis;

2) *On premises owned or rented for conducting bingo* (Section 4(6) of the Act). If a licensee rents premises for the purpose of conducting bingo, and does not regularly conduct other activities at other times on such premises, then pull tabs may be sold on such premises only during the licensee's bingo session, which is defined as "the time during which bingo is conducted, including the time during which bingo cards are sold" (85 Ill. Adm. Code 430.100);

3) *For regular licensees only, at other premises specified in a special permit obtained pursuant to Section 432.110(d).*

4) A license issued by the Department does not grant an unqualified right to sell pull tabs at a specified location. If premises are owned or controlled by a person or organization other than the licensee, that person or organization may prohibit the licensee from selling pull tabs on the premises. **EXAMPLE:** The American Legion Post conducts bingo at the Moose Lodge. Although the Post may legally obtain a license to sell pull tabs at the Lodge, the Lodge is not required to allow the Post to sell pull tabs on the Lodge's premises - this would be a matter to be determined by and between the Post and the Lodge.

5) A regular or limited license or a special permit shall be prominently displayed in the area where pull tabs are sold. If pull tabs are sold in more than one area on the licensed premises, the license shall be prominently displayed in the area where the greatest volume of sales normally occurs. If pull tabs are sold at multiple premises, the license shall be prominently displayed at the premises where the greatest volume of sales normally occurs, and a sign stating where the license is located

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shall be prominently displayed on all other premises. "Prominently displayed" means that a license or sign is clearly visible and legible to the naked eye. Under no circumstances may any licensee duplicate or reproduce any license issued under the Act.

c) *No person under the age of 18 years shall play or participate in the sale of pull tabs. A person under the age of 18 years may be within the area where pull tabs are sold only when accompanied by his or her parent or guardian* (Section 4(5) of the Act).

d) Only a bona fide member or employee of the regular or limited licensee may participate in the sale of pull tabs. A "bona fide" member is one who has been a member of the licensee for at least 30 days prior to participating in the sale of pull tabs. A "bona fide" employee is one whose principal duties are other than managing or operating pull tabs or jar games. No person may receive any remuneration or compensation for participating in the sale of pull tabs.

e) Regular and limited licensees must sell pull tabs for the price printed on the tickets, but in no case may pull tabs be sold for more than \$2 one-dollar each. Pull tabs must be sold for cash - no credit may be extended to purchasers. There shall be no more than 5,000 47968 tickets in each game.

f) No single pull tab prize may exceed \$500 9258 in cash or merchandise (valued at retail). *The aggregate value of all prizes or merchandise awarded in any single day shall not exceed \$5,000 \$2-259-except-that in-Madison-Mentee-and-St-Gair-counties-the-value-of-all-prizes awarded-may-not-exceed-63-259-in-a-single-day* (Section 4(4) of the Act). All winning pull tabs which are redeemed for prizes each day shall be retained by the licensee for a period of 60 days, and shall be segregated from winning pull tabs which are redeemed on other days. Winning pull tabs should be defaced so that they may not be used or redeemed a second time, but defacement must leave the prize amount printed on the ticket legible.

g) All advertising of pull tabs for sale in Illinois by any licensee under this Act must include the license number and name of the licensee.

h) *The entire net proceeds from the sale of pull tabs must be exclusively devoted to the lawful purposes of the licensee* (Section 4(1) of the Act). The net proceeds (gross proceeds less cash returned to winners) must not be commingled with any other funds belonging to the licensee (except interest paid on the deposited proceeds), and must be deposited into the pull tabs checking account established pursuant to Section 432.180(a).

i) *No regular or limited licensee, while pull tabs are being sold, shall knowingly permit entry to any part of the licensed premises to any person who has been convicted of a felony or a violation of Article 28 (Gambling) of the Criminal Code of 1961* (Section 6 of the Act).

(Source: Amended at 24 Ill. Reg. _____, effective

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1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Numbers: Proposed Action:

130.101	Amendment
130.110	Amendment
130.111	Amendment
130.120	Amendment
130.201	Amendment
130.205	Amendment
130.215	Amendment
130.220	Amendment
130.225	New Section
130.305	Amendment
130.315	Amendment
130.320	Amendment
130.321	Amendment
130.330	Amendment
130.331	Amendment
130.335	Amendment
130.345	Amendment
130.350	Amendment
130.351	Amendment
130.401	Amendment
130.410	Amendment
130.415	Amendment
130.425	Amendment
130.435	Amendment
130.445	Amendment
130.535	Amendment
130.540	Amendment
130.701	Amendment
130.705	Amendment
130.720	Amendment
130.735	Amendment
130.745	Amendment
130.801	Amendment
130.805	Amendment
130.810	Amendment
130.815	Amendment
130.901	Amendment
130.905	Amendment
130.910	Amendment
130.1001	Amendment
130.1201	Amendment
130.1305	Amendment
130.1401	Amendment

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130.1405	Amendment
130.1415	Amendment
130.1501	Amendment
130.1515	Amendment
130.1701	Amendment
130.1801	Amendment
130.1901	Amendment
130.1910	Amendment
130.1915	Amendment
130.1925	Amendment
130.1930	Amendment
130.1935	Amendment
130.1940	Amendment
130.1960	Amendment
130.1965	Amendment
130.1971	New Section
130.1975	Amendment
130.1980	Amendment
130.2000	Amendment
130.2005	Amendment
130.2010	Amendment
130.2015	Amendment
130.2020	Amendment
130.2035	Amendment
130.2045	Amendment
130.2055	Amendment
130.2060	Amendment
130.2065	Amendment
130.2070	Amendment
130.2075	Amendment
130.2085	Amendment
130.2100	Amendment
130.2105	Amendment
130.2115	Amendment
130.2130	Amendment
130.2140	Amendment
130.2145	Amendment
130.2156	Amendment
130.2160	Amendment
130.2165	Amendment
130.2170	Amendment
130.2175	Amendment
130.ILLUSTRATION A	

4) Statutory Authority: 35 ILCS 120

5) A Complete Description of the Subjects and Issues Involved: These proposed regulations have been submitted as part of the regulatory review project of the Governor's Office of Performance Review. They generally

DEPARTMENT OF REVENUE

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amend the regulations to reflect statutory changes or decisional law, update statutory cites, and delete obsolete regulations. The amendments also seek to clarify existing rules by providing relevant examples and cross-references. Examples of amendments stemming from statutory changes include Section 130.320, which contains the new gasoline tax rate enacted by P.A. 90-605; Section 130.321, which has been amended to reflect the expanded fuel exemption per P.A. 88-547; Section 130.331, which adds the graphic arts manufacturing purchase credit per P.A. 89-531; Section 130.350 and 130.345, which both reflect the deletion of the \$250 purchase requirement for the coal and oil exploration exemption per P.A. 89-495 and 89-496, respectively; Section 130.701, which reflects technical changes regarding delinquent returns and certificate of registration renewals per P.A. 90-491; and Section 130.1940, which has been amended to reflect the provisions of P.A. 88-420 governing installation of voice, data, video, security and telecommunications systems. Examples of changes made to reflect decisional law include Section 130-2015 (Richards Tire Co. v. Zehnder, 295 Ill.App.3d 298); Section 130-2010 (Telco Leasing v. Allphin, 63 Ill.2d 305); Section 130.2105 (Moody's v. Department of Revenue, 112 Ill.2d 1024); Section 130.1401 and Section 130.1405 (Rock Island Tobacco v. Department of Revenue, 87 Ill.App.3d 476). The Department's regulation governing taxation of software (Section 130.1935) has been amended to reflect the criteria used to identify a nontaxable license of software. Section 130.2000 has been amended to explain the manner in which digital photography products are taxed, and Section 130.1960 has been amended to reflect the manner in which bad debt is handled. Regulations which refer to the Service Occupation Tax have been updated to reflect new Service Occupation Tax provisions and to cross-reference the most recent Service Occupation Tax regulations. Two new regulations have been added. One, Section 130.225, explains the Department's treatment of drop shipments. Another, Section 130.1971, explains that retail sales of pets and other animals are subject to Retailers' Occupation Tax. 130.ILLUSTRATION A has been amended to reflect changes in the exemption cards issued by the U.S. Department of State.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not impose a state mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication

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of this notice to:

Jerilynn T. Gorden
Senior Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: These regulations will generally affect retailers filing returns with the Department; the regulations also reflect new tax exemptions which will positively affect not-for-profit arts or cultural organizations.
- B) Reporting, bookkeeping or other procedures required for compliance: Reporting and bookkeeping procedures required for compliance will generally remain the same as current procedures.
- C) Types of professional skills necessary for compliance: Standard bookkeeping and tax return preparation skills.

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS
CHAPTER I: DEPARTMENT OF REVENUE
TITLE 86: REVENUE
PART 130
RETAILERS' OCCUPATION TAX
SUBPART A: NATURE OF TAX

Section
130.101 Character and Rate of Tax
130.105 Responsibility of Trustees, Receivers, Executors or Administrators
130.110 Occasional Sales
130.111 Sale of Used Motor Vehicles by Leasing or Rental Business
130.115 Habitual Sales
130.120 Nontaxable Transactions

Section
130.201 The Test of a Sale at Retail
130.205 Sales for Transfer Incident to Service
130.210 Sales of Tangible Personal Property to Purchasers for Resale
130.215 Further Illustrations of Sales for Use or Consumption Versus Sales for Resale

Section
130.220 Sales to Lessors of Tangible Personal Property
130.225 Drop Shipments

Section
130.301 Farm Machinery and Equipment
130.310 Food, Drugs, Medicines and Medical Appliances
130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320 Gasohol
130.321 Fuel Used by Air Common Carriers in International Flights
130.325 Graphic Arts Machinery and Equipment
130.330 Manufacturing Machinery and Equipment
130.331 Manufacturer's Purchase Credit
130.335 Pollution Control Facilities
130.340 Rolling Stock
130.345 Oil Field Exploration, Drilling and Production Equipment
130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351 Aggregate Manufacturing

Section
130.401 Meaning of Gross Receipts
130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410 Cost of Doing Business Not Deductible
130.415 Transportation and Delivery Charges
130.420 Finance or Interest Charges--Penalties--Discounts
130.425 Traded-In Property
130.430 Deposit or Prepayment on Purchase Price
130.435 State and Local Taxes Other Than Retailers' Occupation Tax
130.440 Penalties
130.445 Federal Taxes
130.450 Installation, Alteration and Special Service Charges
130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART B: SALE AT RETAIL

Section
130.501 Monthly Tax Returns--When Due--Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section
130.540 Returns on a Transaction by Transaction Basis
130.545 Registrants Must File a Return for Every Return Period
130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555 Vending Machine Information Returns
130.560 Verification of Returns

SUBPART E: RETURNS

Section
130.601 Preliminary Comments
130.605 Sales of Property Originating in Illinois
130.610 Sales of Property Originating in Other States

SUBPART F: INTERSTATE COMMERCE

Section
130.701 General Information on Obtaining a Certificate of Registration
130.705 Procedure in Disputed Cases Involving Financial Responsibility

SUBPART G: CERTIFICATE OF REGISTRATION

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Requirements

130.710 Procedure When Security Must be Forfeited
 130.715 Sub-Certificates of Registration
 130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
 130.725 Display
 130.730 Replacement of Certificate
 130.735 Certificate Not Transferable
 130.740 Certificate Required for Mobile Vending Units
 130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section

130.801 General Requirements
 130.805 What Records Constitute Minimum Requirement
 130.810 Records Required to Support Deductions
 130.815 Preservation and Retention of Records
 130.820 Preservation of Books During Pendency of Assessment Proceedings
 130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section

130.901 Civil Penalties
 130.905 Interest
 130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section

130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section

130.1101 Definition of Federal Area
 130.1105 When Deliveries on Federal Areas Are Taxable
 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section

130.1201 General Information
 130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

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SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

130.1301 When Lessee of Premises Must File Return for Leased Department
 130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises **Department**
 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section

130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
 130.1410 Requirements for Certificates of Resale (Repealed)
 130.1415 Resale Number--When Required and How Obtained
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SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

130.1501 Claims for Credit--Limitations--Procedure
 130.1505 Disposition of Credit Memoranda by Holders Thereof
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SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section

130.1601 When Returns are Required After a Business is Discontinued
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 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

130.1801 When Powers of Attorney May be Given
 130.1805 Filing of Power of Attorney With Department
 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

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130.1901	Addition Agents to Plating Baths
130.1901	Agricultural Producers
130.1905	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage
130.1910	Stamps and Like Articles
130.1915	Auctioneers and Agents
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130.1930	Computer Software
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130.1945	Dentists
130.1950	Dentists
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130.1952	Sales of Building Materials to a High Impact Business
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130.1960	Finance Companies and Other Lending Agencies -- Installment Contracts -- Bad Debt Repossessions
130.1965	Florists and Nurserymen
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130.1971	Sellers of Pets and the Like
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130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
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130.2050	Sales and Gifts By Employers to Employees

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130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
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130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
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130.2100	Sellers of Feeds and Breeding Livestock
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items the like
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130.2155	Vendors of Signs
130.2160	Vendors of Steam
130.2165	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians
130.2170	Warehousemen

ILLUSTRATION A: Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3].

SOURCE: Adopted July 1, 1937; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended

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1989,--ch--1267--pars--440--at-seq-- imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. (For further information concerning "Gross Receipts", see Subpart D of this Part.)

a) How to Determine Effective Rate

1) For the purposes of the Retailers' Occupation Tax Act, any tax liability incurred in respect to a sale of tangible personal property made in the regular course of business shall be computed by applying, to the gross receipts from such sale, the tax rate in effect as of the date of delivery of such property, provided that if delivery occurs after the tax rate changes, in a transaction in which receipts were received before the date of the rate change and tax was paid on such receipts when received by the seller in accordance with Section 130.430 of this Part at the rate which was in effect when the seller received such receipts, no additional tax will be due or credit allowed because of the delivery of the property occurring after the rate changes.

2) Furthermore, in the case of sales of building materials to real estate improvement construction contractors for use in performing construction contracts for third persons, if such property is delivered to the contractor after the effective date of a rate increase and will be used in performing a binding construction contract which was entered into before the effective date of the increase and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, the applicable tax rate will be the rate which was in effect before the effective date of the rate increase. Before a supplier may deliver materials to a construction contractor after the effective date of a tax rate increase at the rate which was in effect prior thereto, the purchasing contractor must give such supplier a written, signed certification stating that specifically described materials are being purchased for use in performing a binding contract which was entered into before the effective date of the rate increase (specifying such date) and under which the contractor is legally unable to shift the burden of the tax rate increase to his customer, identifying the construction contract in question by its date and by naming the contractor's construction work involved, and by giving the location on the job site where the construction contract is being performed or is to be performed.

b) Tax Rate in Effect
The effective rate from January 1, 1985, through December 31, 1989, is 5%. On and after January 1, 1990, the effective rate is 6.2%.

c) Effective Date of New Taxes
When something that has been exempted becomes taxable as to sales that are made on and after some particular date, the date of sale for this purpose shall be deemed to be the date of the delivery of the

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at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15255, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 3652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 25, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15763, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4032, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. _____, effective _____.

SUBPART A: NATURE OF THE TAX

Section 130.101 Character and Rate of Tax

The Retailers' Occupation Tax Act (the Act) [35 ILCS 120] (iii--Rev.--Stat--

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property. This is true even if such delivery is made under a contract that was entered into before the effective date of the new tax.

d) Relation of Retailers' Occupation Tax to Use Tax

The Retailers' Occupation Tax is an occupation tax whose legal incidence is on the seller, rather than on the purchaser. However, with the enactment of the Use Tax Act in 1945 [35 ILCS 105] ~~Stat.---1989,--ch-429,--para-439; it-seq7~~, the retailer became a tax collector under that Act and is required to comply with the bracket systems or tax collection schedules prescribed in the Department's Use Tax Regulations for the collection of the Use Tax by retailers from users. ~~there-no-longer-is-any-occasion-for-the-retailer-to-shift--the-burden-of-the-Retailers'-Occupation-Tax--since--he-will-reimburse-himself-for-his-Retailers'-Occupation-Tax-liability-by-collecting--the-Use-Tax-from-his-customers.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.110 Occasional Sales

- a) Since the Act does not impose a tax upon persons who are not engaged in the business of selling tangible personal property, persons who make isolated or occasional sales thereof do not incur tax liability. For example, if a retailer sells tangible personal property, such as machinery or other capital assets, which he has used in his business and no longer needs, and which he does not otherwise engage in selling, he does not incur Retailers' Occupation Tax liability when selling such tangible personal property even if the sales are at retail and even if he may be required to make a considerable number of such sales in order to dispose of such tangible personal property, because such sales are isolated or occasional and do not constitute a business of selling tangible personal property at retail.
- c) However, construction contractors and real estate developers are not considered to be isolated or occasional sellers of tangible personal property to the extent noted in ~~Subsections-(e)-(f)-and-(d)-of~~ Section 130.1940(c) and (d) of this Part.

- d) Where persons engage primarily in the business of selling tangible personal property other than for use or consumption (such as the business of selling tangible personal property primarily to purchasers for resale), the mere fact that their sales for use or consumption may comprise but a small fraction of their total sales does not make the retail sales isolated or occasional. The vendor is liable for tax measured by his gross receipts from such retail sales.

- e) Regarding sale/leaseback situations, typically customer A purchases equipment from retailer B, and then sells it to lessor C who leases the equipment back to customer A. Customer A has paid tax when purchasing the equipment in the first transaction under a taxable

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retail sale and the second transaction where customer A sells the equipment to lessor C is a nontaxable occasional sale so long as A is not otherwise in the business of selling like-kind property.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.111 Sale of Used Motor Vehicles by Leasing or Rental Business

- a) Any person engaged in the business of leasing or renting motor vehicles to others and who, in connection therewith, sells any used motor vehicle ~~passenger-car--as--defined--in--Section-1-157-of-the--Illinois-Vehicle-Code--(441--Rev-Stat--1985)-ch-95-1/2--para-1-1577~~ to a purchaser or lessor for use and not for resale, is a retailer selling tangible personal property at retail to the extent of the value of the vehicle sold.

- b) For purposes of this Section, "motor vehicle" has the meaning prescribed in Section 1-157 of the Illinois Vehicle Code [625 ILCS 5/1-157]. "Motor vehicle" means a motor vehicle of the First Division, including a multipurpose passenger vehicle that is designed for carrying not more than 10 persons.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises, and evidences of debt;
- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives such number to the vendor in connection with certifying to the vendor that the sale to such purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act [86 Ill. Adm. Code 140];
- e) which are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);

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- f) which are isolated or occasional (see Section 130.110 of this Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);
- h) which are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part);
- i) which are made to any governmental body (see Section 130.2080 of this Part);
- j) of pollution control facilities (see Section 130.335 of this Part);
- k) of fuel consumed or used in the operation of ships, barges or vessels which are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if such fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon such bordering river (see Section 130.315 of this Part);
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
- m) of a motor vehicle in this State to a nonresident even though such motor vehicle is delivered to such nonresident in this State, if such motor vehicle is not to be titled in this State, and if a driveway decal permit is issued to such motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state;
- n) of merchandise in bulk when sold from a vending machine for it (see Section 130.2135 of this Part);
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (Title 42, USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;
- p) of farm chemicals (see Section 130.1955 of this Part);
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and which are designated mandatory service charges by vendors of meals to the extent provided that all of the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been

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- introduced. Service charges which are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;
- s) of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser.
- 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.
- 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;
- t) of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease (see Section 130.305);
- u) of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale;
- v) of graphic arts machinery and equipment, including repair and replacement parts (see Section 130.325);
- w) a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act;
- x) of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois (see Section 130.2006);
- y) of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001];
- z) of personal property sold to an Illinois County Fair Association for use in conducting, operating or promoting the County Fair;
- aa) of personal property sold to any not-for-profit music-or-dramatic arts

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or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USC 513-514; 501) and that is organized and operated for the preservation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations of **five--public--performances-of--musical-or-theatrical-works-on-a-regular basis;**

bb) of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise (see Section 130.2008);

cc) of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion, unless such items are transferred as jewelry and therefore subject to tax;

dd) of oil field exploration, drilling and production equipment **costing \$250-or-more** (see Section 130.345);

ee) of photoprocessing machinery and equipment, including repair and replacement parts (see Section 130.2000);

ff) of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment **costing-\$250-or-more**, including replacement parts and equipment **costing--\$250-or-more** (see Section 130.350);

gg) of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers **destination-outside-the-United-States (Section-2-5 of-the-Act)** (see Section 130.321);

hh) of semen used for artificial insemination of livestock for direct agricultural production. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

ii) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or after December 31, 2004, of personal property that is donated for disaster relief to be used in a

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State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit; **and**

jj) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within six months after the disaster. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit; **7**

kk) **of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois;**

ll) **horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America,**

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Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes:

- mm) of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 19 of the Retailers' Occupation Tax Act (see Section 130.2011 of this Part);
- nn) of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 19 of the Retailers' Occupation Tax Act (see Section 130.2012 of this Part);
- oo) of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois (Section 2-5 of the Act);
- pp) of aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code (Section 2-7 of the Act);

qq) beginning July 20, 1999, game or game birds purchased at:

- 1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);
- 2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or
- 3) a hunting enclosure approved through rules adopted by the Department of Natural Resources.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART B: SALE AT RETAIL

Section 130.201 The Test of a Sale at Retail

a) Sale at Retail

- 1) "Sale at retail" means any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use or consumption, and not for the purpose of resale in any form

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as tangible personal property to the extent not first subject to a use for which it was purchased, for a valuable consideration, provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or byproduct of manufacturing. Transactions whereby the possession of the property is transferred but the seller retains the title as security for payment of the selling price shall be deemed to be sales.

2) "Sale at retail" includes any transfer (whether made for or without a valuable consideration) of the ownership of or title to tangible personal property to a purchaser for resale in any form as tangible personal property unless made in compliance with Section 2c of the Retailers' Occupation Tax Act and Section 130.1415 of this Part concerning the purchaser's possession and furnishing of a taxpayer registration number or resale number from the Department of Revenue to the seller (see Section 130.210 of this Subpart).

3) Even if the sale is at retail, the Retailers' Occupation Tax does not apply to receipts received by the seller from a sale to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, to a limited liability company only if it is organized and operated exclusively for educational purposes, to a not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older, or from any sale that is made to a governmental body.

b) Sales for Transfer as Gifts, etc.

Sales at retail also include any sale of tangible personal property to a purchaser even though such property may be used or consumed by some other person to whom such purchaser transfers the tangible personal property without a valuable consideration, such as gifts, and advertising specialties distributed gratis apart from the sale of other tangible personal property or service (see Sections 130.2120 and 130.2160 of this Part). For example, when a manufacturer orders, pays for and directly ships point-of-sale advertising items to retailers separately from the sale of other tangible personal property or service, the manufacturer is considered the user of the items and incurs Use Tax. For instance, when a beer manufacturer provides items, such as interior neon signs, clocks, and other devices intended to encourage a demand for the products that they manufacture, to retailers for display, the manufacturer is the user of the property and incurs Use Tax. (Miller Brewing Company v. Korshak (1966), 35 Ill.2d 86, 219 N.E.2d 494.) However, when the tangible personal property is transferred along with other goods for which a charge is made, that transfer is deemed a sale for resale. When sewing needle

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display racks, for example, are transferred along with sewing needles for which a charge is made, the transfer is deemed a sale for resale. (Boye Needle Company v. Department of Revenue (1970), 45 Ill.2d 484, 259 N.E.2d 278). Grocery store display racks provided free of charge to grocery stores by a manufacturer, in exchange for the right to exclusively display its product on the rack, are another example of this type of sale for resale.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130-205 Sales for Transfer Incident to Service

- a) Sales of tangible personal property to a purchaser, who transfers the ownership of or title to the tangible personal property to others in connection with his sale of other tangible personal property or in connection with his furnishing of service for which he makes a charge, are sales of tangible personal property to such purchaser for resale. This is the case unless the purchaser is a de minimis serviceman who has elected to handle his Service Occupation Tax liability in the manner provided at Section 2(g) of the Service Occupation Tax Act (35 ILCS 115/2(g)). Sales of tangible personal property to such de minimis servicemen are generally subject to Retailers' Occupation Tax. For specific ~~however~~ for information concerning the tax on persons engaged in the business of making sales of service and the duty of their suppliers to collect Service Occupation Tax from them, see the Regulations Pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code Part 140).

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.215 Further Illustrations of Sales for Use or Consumption Versus Sales for Resale

- a) A manufacturer of ice cream may require, in his occupation, machinery, freezers, fuel, ammonia and other equipment and supplies. Sales of such items to the manufacturer are sales for use or consumption. Such items do not physically enter into, nor, as ingredients or constituents, form a part of, the product sold by such ice cream manufacturer. Such items are purchased for use or consumption and not for resale within the meaning of the Retailers' Occupation Tax Act. Persons who engage in the business of making such sales incur Retailers' Occupation Tax liability. (However, for information regarding the Manufacturing Machinery and Equipment Exemption from sales tax, see 86 Ill. Adm. Code 130.330.) Sales of milk, cream, sugar, extracts and various other constituents are also made to manufacturers of ice cream. Such sales are for resale because these

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items are intended to, and do enter into and form a useful part of a commodity which thereafter becomes the subject of a sale for use or consumption.

- b) For example, a fast food seller purchases cooking oil to use in preparing foods such as french fries and chicken. 5% of the oil is absorbed into the food and ends up as an integral part of the food when finished. 95% of the oil does not become part of the cooked food and is discarded by the fast food seller after use. This being the case, the 5% of the oil that is absorbed and becomes an integral part of the food product is exempt from tax as a purchase for resale. The 95% of the oil that does not end up as an integral part of the finished product is taxable because it is used by the food seller. In this case, the food seller should give a blanket percentage-use Certificate of Resale to the supplier that states that 5% of its purchases of oil are exempt from tax as purchases for resale and 95% are taxable as purchases for use. The Certificate of Resale must meet all the requirements of 86 Ill. Adm. Code 130.1405. In addition to specifying the percentage of material that will be resold, the seller should charge tax only on the 95% of the oil used by the purchaser.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.220 Sales to Lessors of Tangible Personal Property

- a) Effective August 1, 1967, the sale of tangible personal property to a purchaser who will act as a lessor of such tangible personal property is a sale at retail and is subject to Retailers' Occupation Tax. Also, effective August 1, 1967, the sale of tangible personal property that is used, employed or consumed by the purchaser in or upon other tangible personal property as to which such purchaser acts as a lessor is a sale at retail and so is subject to Retailers' Occupation Tax. (See also Section 130.2010 of this Part.)
- b) However, an exception exists for the sale of an automobile to an automobile rent or for use as a rental automobile under lease terms of one (1) year or less, provided the lessor gives proper certification to the seller. The exception does not apply to a retail sale of repair or replacement parts for rental automobiles.
- c) All gross receipts received from the sale of tangible personal property at retail, whether or not encumbered by leases or other rights vested in third parties, are presumed to be subject to Retailers' Occupation Tax. No deduction will be permitted for any value attributable to intangible property or rights transferred in a sale of tangible personal property at retail if there is not clear evidence from the books and records of the retailer that the sale of such intangible property has been contracted for separately from the sale of the tangible personal property. In no event will the combined sale of tangible and intangible property be permitted to reduce the

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tax base of the tangible personal property being sold below the fair market value of similar tangible personal property sold separately.

- d) Sales of tangible personal property to lessors are subject to Retailers' Occupation Tax liability as provided in this Section even if the tangible personal property is leased to an exempt entity that has been issued an exemption identification number under Section 130.2007 of this Part. The only exemption from this provision is if the purchases of the tangible personal property qualify under Section 130.2011 (computers, communications equipment, and equipment used in diagnosis, analysis, or treatment that are leased to exempt hospitals) or 130.2012 (tangible personal property leased to a governmental body) of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.225 Drop Shipments

- a) A drop-shipment situation is one in which out-of-State purchasers (purchasers) that are not registered with the State of Illinois and that do not have sufficient nexus with Illinois to require them to collect Illinois Use Tax make purchases for resale from companies (companies) that are registered with Illinois and have those companies drop-ship the property to purchasers' customers (customers) located in Illinois. As sellers required to collect Illinois tax, companies must either charge tax or document exemptions when they make deliveries in Illinois. In order to document the fact that their sales to purchasers are sales for resale, companies are obligated by Illinois to obtain valid Certificates of Resale from purchasers. (See 86 Ill. Adm. Code 130.1405 for information on what is required for a Certificate of Resale to be valid.)

- b) If purchasers have no nexus with Illinois, it is unlikely that purchasers would be registered with Illinois. If that is the case, and if purchasers have no contact with Illinois that would require them to be registered as out-of-State Use Tax collectors for Illinois, then purchasers could obtain resale numbers, which would provide them the wherewithal to supply required numbers to companies in conjunction with Certificates of Resale. Resale numbers are issued to persons who make no taxable sales in Illinois but who need the wherewithal to provide suppliers with Certificates of Resale when purchasing items that will be resold. So long as purchasers do not act as Illinois retailers and, so long as they do not fall under the definition of a retailer maintaining a place of business in this State, their sales to Illinois customers are not subject to Illinois Retailers' Occupation Tax liability and they cannot be required to act as Use Tax collectors. So long as this is true, purchasers qualify for resale numbers that do not require the filing of tax returns with the Illinois Department of Revenue. (See 86 Ill. Adm. Code 130.1415 for

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information on resale numbers.) A retailer maintaining a place of business in this State" or any like term shall mean and include any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State. (See 86 Ill. Adm. Code 130.201(i) and Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).)

- c) The fact that purchasers may not be required to act as Use Tax collectors for Illinois does not relieve their customers of Use Tax liability. Therefore, if purchasers do not collect Illinois Use Tax from their customers, the customers would have to pay their tax liability directly to the Illinois Department of Revenue.

- d) While active registration or resale numbers on Certificates of Resale are still preferred, the Illinois Retailers' Occupation Tax Act provides that failure to present an active registration number or resale number and a certification to the seller that a sale is for resale creates a presumption that a sale is not for resale. This presumption may be rebutted by other evidence that all of the seller's sales are sales for resale or that a particular sale is a sale for resale [35 ILCS 120/2c]. In light of this statutory language, certifications from purchasers on Certificates of Resale in lieu of resale numbers that described the drop-shipment situation and the fact that purchasers have no contact with Illinois that would require them to be registered and that they choose not to obtain Illinois resale numbers would constitute evidence that this particular sale is a sale for resale despite the fact that no registration number or resale number is provided. The risk run by companies in accepting such a certification is that an Illinois auditor is much more likely to go behind a Certificate of Resale that does not contain a valid resale number and require that more information be provided by companies as evidence that the particular sale was, in fact, a sale for resale.

(Source: Added at 24 Ill. Reg. _____, effective _____)

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.305 Farm Machinery and Equipment

- a) General: Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment, both new and used and including that manufactured on special order, used or leased for use primarily in production

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agriculture or for use in State or Federal agricultural programs, including any individual replacement part for such machinery and equipment. A purchaser must certify to the use of the equipment to obtain the exemption.

- b) Production Agriculture is the raising of or the propagation of: livestock, crops for sale for human consumption; crops for the propagation of feed grains and the husbandry of animals or, for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a food product. Production Agriculture also includes animal husbandry, floriculture, aquaculture, horticulture and viticulture. (Section 2-35 of the Act)

- c) Horticulture means the business of producing vegetables, vegetable plants, nursery stock, including the operation of nurseries and orchards, but not the sale of plants by retail outlets which do not grow the plant stock.

- d) Floriculture means the business of producing flowers, Christmas trees or other decorative trees, plants, shrubs, sod, including such operations as greenhouses but not the sale of plants by retail outlets which do not grow plant stock.

- e) Viticulture means the business of growing grapes or operating vineyards.

- f) Production Agriculture, with respect to crops, is limited to activities necessary in tilling the soil, planting, irrigating, cultivating, applying herbicide, insecticide or fertilizer, harvesting and drying of crops. Specialized food production operations which produce plants under controlled environments in growing media other than soil, qualify as production agriculture. Activities such as the clearing of land, mowing of fence rows, creation of ponds or drainage facilities are not included, nor are the operations involved in the storing or transporting of crops and produce. The processing of crops into food or other products is not production agriculture. With respect to the raising of or propagation of livestock and husbandry of animals, the animals must be domestic farm animals raised for profit. The raising of wild animals, game birds and house pets would not be considered to be production agriculture.

- g) The transport, slaughter and processing of animals or animal food products are not considered to be production agriculture.

- h) Farm machinery and equipment. The exemption applies only to items of farm machinery and equipment, either new or used, certified by the purchaser to be used primarily for production agriculture or State or Federal agricultural programs, and including machinery and equipment purchased for lease. Included in this exemption are implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code. Excluded from this exemption are other motor vehicles required to be registered pursuant to the Illinois Motor Vehicle Code. Registered vehicles other

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motor vehicles may qualify for the exemption if they are used primarily in production agriculture rather than in transportation or other nonexempt activities. Examples of this include implements of husbandry used primarily to supply and apply farm chemicals; trailers and nurse tanks used primarily to supply spreaders in the fields; and aircraft used primarily to apply farm chemicals. All-terrain vehicles (ATVs) may qualify if they are used primarily in production agriculture activities such as pulling sprayers while they apply chemicals to fields or collecting and mapping soil samples. The use of ATVs for farm transportation or recreation purposes does not constitute production agriculture. When ATVs are used in both production agriculture and nonqualifying activities, the primary use will determine if they qualify for exemption. The law exempts only the purchase and use of farm machinery and equipment used in production agriculture or State or Federal agricultural programs. No ~~Accordingly,~~ no other type or kind of tangible personal property will qualify for the exemption.

- i) Machinery means major mechanical machines or major components thereof contributing to the production agriculture process or used primarily in State or Federal agricultural programs. Farm machinery would include tractors, combines, balers, irrigation equipment, cattle and poultry feeders, but not improvements to real estate such as fences, barns, roads, grain bins, silos, and confinement buildings. A rotary mower which would not qualify for exemption if used to mow ditches or fence rows, would qualify for exemption if primarily used to mow crops or ground cover grown on acreage in State or Federal agricultural programs. Certain machines qualify for the exemption if purchased by farmers directly from retailers, even though they are installed as reality improvements. Such machines include but are not limited to augers, grain dryers (heaters and fans), automated livestock feeder bunks (but not ordinary building materials), automatic stock waters (powered by electricity or water pressure and built into a permanent plumbing system), and water pumps serving production areas, specialty heating or lighting equipment specifically required by the production process, i.e., ultraviolet lights, and special heaters for incubation. General heating, lighting and ventilation equipment does not qualify as farm machinery or equipment. A person (such as a plumber or contractor) who contracts to provide and install an exempt machine or equipment permanently into real estate must obtain an exemption certificate from the person purchasing the machine. The contractor must furnish certification to the seller, attaching the certificate of the purchaser in order to claim the exemption.

- j) A tractor or other machinery which qualifies for the exemption may include options or accessories which are not farm equipment. Except for precision farming equipment ~~However~~, these items must be installed and sold both as an integral part of the qualifying machine and in a single transaction. Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to

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be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated. (Section 2-5 of the Act)

- k) Equipment means any independent device or apparatus separate from any machinery, but essential to production agriculture. Equipment does not include ordinary building materials to be permanently affixed to real estate. However, certain items of equipment can qualify for the exemption even though they are installed as ready improvements. Such items of equipment include, but are not limited to, farrowing crates, gestation stalls, poultry cages, portable panels for confinement facilities and flooring used in conjunction with waste disposal machinery. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants are considered farm machinery and equipment. Wheeled, wire-mesh tables and wheeled, non-motorized, multiple-tray carts used primarily in floricultural or horticultural growing operations, such as those described in Mid-American Growers v. Department of Revenue (143 Ill.App.3d 600), are considered farm machinery and equipment. Equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment, including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guidance systems, modems, and data communications equipment. It shall also include necessary mounting hardware, wiring and antennas. Farm machinery and equipment also includes computers, sensors, software and related equipment used primarily in the computer assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. Example: precision farming and computer assisted operation of production agriculture facilities includes the collection of crop and soil data, the processing of that data, and the use of that data or its products in production agriculture. Thus, machinery and equipment such as soil sensors, moisture sensors and yield monitors would collect data on a particular field. This information would be precisely correlated to a specific location by use of satellite GPS systems linked to a computer. These devices would typically be mounted on a tractor or combine. These devices could also be hand held or mounted on other types of vehicles even though those vehicles, such as pick-up trucks, do not qualify for the exemption. The data collected from the farm field would then be transferred to a base station, computer electronically by modem, or via magnetic media or CD ROM disk. The data would be processed by the base station computer and integrated into or overlaid on digital maps of the farm field. The farmer could use the information to make decisions about what types of crops to plant and the type, formula and application rate of

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fertilizer, pesticide or other agricultural chemical to apply to the field. The processed and integrated data would then be available for use by the farmer in planting or could be transferred to a fertilizer dealer who applies farm chemicals. The fertilizer dealer would use the information about the farmer's field and the digital map to determine the type and formula of chemical to be applied to the farmer's field and the rate of application. That information would be transferred to the computer in the fertilizer spreader. With the aid of a GPS system linked to the computer in the fertilizer spreader, the fertilizer dealer would be able to precisely apply the necessary chemicals and vary the application rate to meet crop needs across the field. All of the sensors, computers, software and accessories described above would qualify for the exemption. A livestock farmer would use microchips and sensors to identify specific animals and determine individual growth information for animals. This information would be used by computers to determine the optimum feed/diet for the animal and could then be used to dispense the proper type and amount of feed to the animal. In confinement buildings, temperature and moisture sensors may be linked through computers to control heating ventilation and lighting for livestock as well as regulating the automatic stock feeders and waterers. Precision farming equipment would include the microchips, sensors, computers and computer controlled feeding equipment and environmental controls. The use of computers to record and process crop and livestock management information gathered through the use of these types of sensors or monitors constitutes precision farming. However, the use of computers to record and process other farm related information such as accounts payable, correspondence, or marketing does not constitute precision farming. When a computer is used for both precision farming and nonqualifying purposes, the primary use of the computer will determine if it qualifies for the exemption. The use of computers to record and process land information about soil types and slope and pesticide, herbicide and fertilizer application also constitutes precision farming. Equipment used in farm management such as radios and office equipment, in repair and servicing of equipment, in security and fire protection, is not farm equipment; nor does the exemption apply to equipment used in farm maintenance, administration, selling, marketing or the exhibition of products. The exemption does include hand-operated equipment such as wheelbarrows, hoes, rakes, pitchforks and shovels so long as they are used in production agriculture as that term is defined in subsection (b) of this Section. Hand tools used in maintenance activities, such as wrenches, pliers, wire stretchers, grease guns, hammers and screwdrivers, are not used in production and do not qualify for the exemption. Supplies, such as baling wire, baling twine, work gloves, boots, overshoes and chemicals for effluent systems are not exempt.

- l) New or used repair or replacement parts, necessary for the operation of the machine used in production agriculture or in State or Federal

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agricultural programs, qualify for the exemption. With the exception of precision farming items. However, accessories or replacements not essential to the operation of the machinery itself, except when sold as an integral part of a qualified machine at the time of purchase, such as an integral, tool or utility boxes, do not qualify for the exemption. Included in the repair or replacement parts category are: batteries, tires, fan belts, mufflers, spark plugs, plow points, standard type motors and cutting parts. Consumable supplies such as fuel, grease, oil and anti-freeze are not repair or replacement parts.

m) Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address. The purchaser's name and address and a statement that the property purchased will be used primarily in production agriculture or in State or Federal agricultural programs. Retailers may accept blanket certificates but have the responsibility to obtain and must maintain the certificates as a part of their books and records. Retailers are required to exercise good faith in accepting exemption certificates. If, however, a retailer reasonably believes that the purchaser will use farm machinery or equipment in production agriculture or in State or Federal agricultural programs and accepts the certificate in good faith and the purchaser does not, in fact, use the machinery or equipment in production agriculture or in State or Federal agricultural programs, the purchaser will be liable to the Department for the tax. An item of farm machinery and equipment which is initially used primarily in production agriculture and having been so used for less than one-half of its useful life, is converted to primarily nonexempt uses, will become subject to tax at the time of the conversion. Such tax will be collected on such portion of the price of the machinery and equipment as was excluded from tax at the time the sale or purchase was made.

n) Leasing. Farm machinery and equipment purchased for lease to be used by the lessee primarily in production agriculture or in State or Federal agricultural programs qualifies for the exemption. The lessor purchasing such equipment must certify that the equipment will be so used. Should a purchaser-lessor subsequently lease the machinery or equipment primarily to lessees who do not use it in a manner that would qualify for the exemption, the purchaser-lessor will become liable for the tax from which he was previously exempted.

o) Custom farmers or special service operators, i.e., crop dusting, fertilizer spraying, combining or corn shelling, who provide a service-for-hire on farms other than their own which is an integral part of production agriculture may also claim the exemption if the equipment is used primarily in production agriculture.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois

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a) Effective July 26, 1967, notwithstanding the fact that such sales are at retail, the Retailers' Occupation Tax does not apply to sales of fuel consumed or used in the operation of ships, barges or vessels which are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if such fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon such bordering river.

b) The phrase "rivers bordering on this State" includes the Mississippi River, the Ohio River, and the Wabash River. The phrase "rivers bordering on this State" does not include rivers that do not border Illinois, such as the Illinois River and the Calumet River. The phrase "rivers bordering on this State" also does not include any portion of Lake Michigan.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.320 Gasohol

Effective January 1, 1990 and prior to July 1, 2003, sales of "gasohol" (a motor fuel containing at least 10% alcohol which alcohol contains no more than 1.25% water by weight) are subject to tax, based upon 70% of the proceeds of sales. On and after ~~made prior to~~ July ~~January~~ 1, 2003, tax shall be based upon 1993--~~and to~~ 100% of proceeds from sales of gasohol. ~~made thereafter~~. However, from July 1, 1997 to June 30, 1998, the rate was 85% for gasohol sold in this State during the 12 months beginning July 1 following any calendar year for which the Department determined that the percentages in Section 10. of the Gasohol Fuels Tax Abatement Act were not met. The Gasohol Fuels Tax Abatement Act was repealed effective July 1, 1998.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.321 Fuel Used by Air Common Carriers in International Flights

a) Notwithstanding the fact that sales may be at retail, fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers ~~to destination outside the United States~~ is exempt from tax. (Section 2-5 of the Act)

b) An air common carrier means a commercial air common carrier certified and authorized to conduct international flights involving passengers or cargo for hire, on a regularly-scheduled basis.

c) Flights destined for a destination outside the United States include flights which originate in Illinois or have a stopover in Illinois and

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which may have intermediate stops at other locations in the United States prior to arriving at the destination outside the United States. In such situations, all fuel loaded for such a flight shall be considered to be exempt, notwithstanding the fact that a portion of the fuel will be consumed within the United States. If a flight is loaded with exempt fuel for an intended international flight, but for some reason the flight stops at an intermediate location in the United States and does not continue to the foreign destination, the fuel will be taxable.

- d) In general, exempt international fuel shall be treated in the same manner as bonded fuel with respect to the sale, accountability and eligibility of tax exemption.
- e) Exempt international fuel may be commingled with other jet fuel within the hydrant systems at qualifying airports. However, accurate records must be maintained with respect to the purchaser, gallonage of fuel loaded, flight number, aircraft tail number, ultimate foreign destination and intermediate stops.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.330 Manufacturing Machinery and Equipment

- a) General. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. The exemption applies whether the sale or lease is made directly by the manufacturer or some other person. In certain cases purchases of machinery and equipment by a lessor will be exempt even though that lessor does not himself employ the machinery and equipment in an exempt manner.

- b) Manufacturing and Assembling.
 - 1) This exemption exempts from tax only machinery and equipment used in manufacturing or assembling tangible personal property for sale or lease. Thus, the use of machinery and equipment in any industrial, commercial or business activity which may be distinguished from manufacturing or assembling will not be an exempt use and such machinery and equipment will be subject to tax.

- 2) The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be

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- 3) The process or activity must be commonly regarded as manufacturing. To be so regarded, it must be thought of as manufacturing by the general public. Generally, the scale, scope and character of a process or operation will be considered to determine if such process or operation is commonly regarded as manufacturing. Manufacturing includes such activities as processing, fabricating and refining.

- 4) Generally, manufacturing **Manufacturing** does not include extractive industrial activities. Mining, logging, and drilling for oil, gas, and water neither produce articles of tangible personal property nor effect any significant or substantial change in the form, use or name of the materials or resources upon which they operate. However, pursuant to Nokomis Quarry v. The Department of Revenue, the extractive process of quarrying does not constitute manufacturing. In addition, however, the activities subsequent to quarrying such as crushing, washing, sizing and blending will constitute manufacturing, and machinery and equipment used primarily therefore will qualify for the exemption, if the process results in the assembling of an article of tangible personal property with a different form, use or name than the material extracted.

- 5) The printing process is not commonly regarded as manufacturing and court decisions have found that printing is not manufacturing. Therefore, machinery and equipment used in any printing application will not qualify for exemption. This includes graphic arts, newspapers, books, etc. as well as other industrial or commercial applications. (However, see Section 130.325 for the Graphic Arts Machinery and Equipment Exemption.)

- 6) Agricultural, horticultural and related, similar or comparable activities, including commercial fishing, beekeeping, production of seedlings or seed corn, and the development of hybrid seeds, plants, or shoots, are not manufacturing or assembling and, accordingly, machinery and equipment used in such activities is subject to tax. (However, see Section 130.305 for the Farm Machinery and Equipment Exemption.)

- 7) The preparation of food and beverages by restaurants, food service establishments, and other retailers is not manufacturing.

- 8) Assembling means the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name.

- 9) Effective September 1, 1988 manufacturing includes photoprocessing if the products of photoprocessing are sold. Machinery and equipment which would qualify for exemption

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includes, but are not limited to, developers, driers, enlargers, mounting machines, roll film splicers, film developing image makers, disc film opening and spindling devices, film indexers, photographic paper exposure equipment, photographic devices, developing machines, densitometers, print inspection devices, photo print/negative out assembly stations, film sleeve insertion machines, negative image producers, film coating equipment, photo transparency mounters, processor rack sanitizers, graphic slide generators, photo print mounting presses, graphic slide embossers, chemical mixing equipment and paper exposure positioning and holding devices, etc. Cameras and equipment used to take pictures or expose film are not eligible as the photoprocessing begins after the film is exposed. Retail/net price calculation equipment and chemical reclamation equipment are not considered to be manufacturing machinery and equipment.

c) Machinery and Equipment

1) The law exempts only the purchase and use of "machinery" and "equipment" used in manufacturing or assembling. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the manufacturing or assembling of tangible personal property for sale or lease.

2) Machinery means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process: including, machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment.

3) Equipment includes any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembling process: including computers used primarily in operating exempt machinery and equipment in a computer-assisted design, computer-assisted manufacturing (CAD/CAM) system; or any subcontract or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment, parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds, and any parts which require periodic replacement in the course of normal operation. The exemption does not include hand tools, supplies (such as rags, sweeping or cleaning compounds), coolants, lubricants, adhesives, or solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons, masks, mask air filters, belts, harnesses, or holsters), coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water. (Section 2-45 of the Act)

4) The exemption includes the sale of materials to a purchaser who manufactures such materials into an exempted type of machinery or equipment or tools which such purchaser uses himself in the manufacturing of tangible personal property or leases to a manufacturer of tangible personal property. However, such

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purchaser must maintain adequate records clearly demonstrating the incorporation of such materials into exempt machinery and equipment.

5) Machinery and equipment does not include foundations for, or special purpose buildings to house or support, machinery and equipment.

d) Primary Use

1) The law requires that machinery and equipment be used primarily in manufacturing or assembling. Therefore, machinery which is used primarily in an exempt process and partially in a nonexempt manner would qualify for exemption. However, the purchaser must be able to establish through adequate records that the machinery or equipment is used over 50 percent in an exempt manner in order to claim the deduction.

2) The fact that particular machinery or equipment may be considered essential to the conduct of the business of manufacturing or assembling because its use is required by law or practical necessity does not, of itself, mean that machinery or equipment is used primarily in manufacturing or assembling.

3) By way of illustration and not limitation, the following activities will generally be considered to constitute an exempt use:

- A) The use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold;
- B) The use of machinery or equipment to guide or measure a direct and immediate physical change upon the tangible personal property to be sold, provided such function is an integral and essential part of tuning, verifying, or aligning the component parts of such property;
- C) The use of machinery or equipment to inspect, test or measure the tangible personal property to be sold where such function is an integral part of the production flow;
- D) The use of machinery and equipment to convey, handle, or transport the tangible personal property to be sold within production stations on the production line or directly between such production stations or buildings within the same plant;
- E) The use of machinery or equipment to place the tangible personal property to be sold into the container, package, or wrapping in which such property is normally sold where such machinery or equipment is used as a part of an integrated manufacturing process; ⁷
- F) The production or processing of food, including the use of baking equipment such as ovens to bake bread or other bakery items, whether that baking is performed by a central bakery or a retail grocery store.
- 4) By way of illustration and not limitation, the following

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activities will generally not be considered to be manufacturing:

- A) The use of machinery or equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance, or improvement of real estate;
- B) The use of machinery or equipment in research and development of new products or production techniques, machinery, or equipment;
- C) The use of machinery or equipment to store, convey, handle or transport materials or parts or sub-assemblies prior to their entrance into the production cycle;
- D) The use of machinery or equipment to store, convey, handle or transport finished articles of tangible personal property to be sold or leased after completion of the production cycle;
- E) The use of machinery or equipment to transport work in process, or semifinished goods, between plants;
- F) The use of machinery or equipment in managerial, sales, or other nonproduction, nonoperational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel recruitment, selection or training;
- G) The use of machinery or equipment to prevent or fight fires or to protect employees, such as protective equipment face masks, helmets, gloves, coveralls, and goggles or for safety, accident protection or first aid even though such machinery or equipment may be required by law;
- H) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination, not required by the manufacturing process;
- I) The use of machinery or equipment in the preparation of food and beverages by a retailer for retail sale, i.e., restaurants, vending machines, food service establishments, etc.;
- J) The use of machinery or equipment used in the last step of the retail sale. Examples are paint mixing equipment used by a hardware store, embroidery or monogramming machines used by tee-shirt retailers and a sewing machine used to hem garments sold by a clothing store.
- 5) An item of machinery or equipment which initially is used primarily in manufacturing or assembling and having been so used for less than one-half of the useful life is converted to primarily nonexempt uses will become subject to tax at the time of the conversion. Such tax will be collected on such portion of the price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.

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e) Product Use

- 1) The statute requires that the product produced as a result of the manufacturing or assembling process be tangible personal property for sale or lease. Accordingly, a manufacturer or assembler who uses any significant portion of the output of his machinery or equipment, either for internal consumption or any other nonexempt use, or a lessor who leases otherwise exempt machinery and equipment to such a manufacturer or assembler, will not be eligible to claim the exemption on that machinery and equipment. No apportionment of production capacity between output for sale or lease and output for self-use will be permitted and no partial exemption for any item of machinery and equipment will be allowed.
- 2) The production of articles of tangible personal property for sale, a portion of which is diverted by the manufacturer thereof to use as sales samples or as the subjects of quality control testing which renders the articles unfit for sale, will nevertheless be deemed to be production for sale, provided such diversion represents only a small portion of the production of the articles of tangible personal property or of the sale of those articles.
- 3) Machinery and equipment used in the performance of a service, such as dry cleaning, is not used in the production of tangible personal property for sale and is thus taxable. However, a manufacturer or assembler who uses machinery and equipment to produce goods for sale or lease by himself or another, or to perform assembly or fabricating work for a customer who retains the manufacturer or assembler only for his services, will not be liable for tax on the machinery and equipment he uses as long as the goods produced either for himself or another are destined for sale or lease, rather than for use and consumption.
- f) Sales to Lessors of Manufacturers
 - 1) For this exemption to apply, the purchaser need not himself employ the exempt machinery or equipment in manufacturing. If the purchaser leases that machinery or equipment to a lessee-manufacturer who uses it in an exempt manner, the sale to the purchaser-lessee will be exempt from tax. A supplier may exclude such sales from his taxable gross receipts provided the purchaser-lessee provides to him a properly completed exemption certificate and the information contained herein would support an exemption if the sale were made directly to the lessee-manufacturer.
 - 2) Should a purchaser-lessee subsequently lease the machinery or equipment to a lessee who does not use it in a manner that would qualify directly for the exemption, the purchaser-lessee will become liable for the tax from which he was previously exempted.
- g) Exemption Certificates
 - 1) The user of such machinery or equipment and tools shall prepare a

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certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the retailer. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit. The Department shall prescribe the form of the certificate. If the user has an active registration or resale number, that number may be given in lieu of the prescribed certificate.

2) If a manufacturer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must prepare and retain in his files, the completed exemption certificate. The exemption certificate shall be available to the Department for inspection or audit.

3) A vendor who makes sales of machinery or equipment to a manufacturer or lessor of a manufacturer must collect Use Tax, and will owe Retailers' Occupation Tax, on that sale unless the purchaser certifies the exempt nature of the purchase to the vendor as set out above. The Summary Schedule, RR-586, must be submitted in lieu of taxes at the time the taxes are due.

4) In the case of a vendor who makes sales of qualifying machinery or equipment to a contractor who will incorporate it into real estate so that he, the contractor, would be the taxable user (see Sections 130.1940 and 130.2075 of this Part), the purchasing contractor should provide the vendor with a certification that the machinery or equipment will be transferred to a manufacturer as manufacturing machinery or equipment in the performance of a construction contract for the manufacturer. The purchasing contractor should include the manufacturer's name and registration number on the certification when claiming the exemption.

b) Opinions and Rulings

Informal ruling and opinion letters issued by the Department regarding the coverage and applicability of this exemption to specific devices will be maintained by the Department in Springfield. They will be available for public inspection and may be copied or reproduced at taxpayer's expense. Trade secrets or other confidential information in such letters will be deleted prior to release to public access files.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.331 Manufacturer's Purchase Credit

a) Earning Manufacturer's Purchase Credit

1) Effective January 1, 1995, a manufacturer may earn a credit when purchasing exempt manufacturing machinery and equipment. Effective July 1, 1996, a graphic arts producer may earn a credit

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when purchasing exempt graphic arts machinery and equipment. The credit is known as the Manufacturer's Purchase Credit or MPC. The amount of credit is limited to a percentage of the 6.25% State rate of tax that would have been incurred on the purchase of exempt manufacturing machinery and equipment. (See Section 130.325 and Section 130.330 of this Part.)

2) The percentage of credit earned based upon exempt purchases increases over time as follows:

- A) 15% for purchases made on or before June 30, 1995.
- B) 25% for purchases made after June 30, 1995, and on or before June 30, 1996.
- C) 40% for purchases made after June 30, 1996, and on or before June 30, 1997.
- D) 50% for purchases made on or after July 1, 1997. (Section 3-85 of the Use Tax Act)

3) The credit is earned at the time qualifying manufacturing machinery and equipment or qualifying graphic arts machinery and equipment is purchased. A qualifying purchase is considered to take place as of the date of invoice of that qualifying manufacturing machinery and equipment. The credit is considered to be earned on qualifying manufacturing machinery and equipment purchased under an installment contract or progress payment contract at the time that each installment or progress payment is invoiced. The amount of credit that is earned is based on the amount of tax that would have been due on that portion of the purchase price that is invoiced.

4) No credit is earned for exempt purchases under the expanded Enterprise Zone exemption, as described in subsection (b) of Section 130.1951 (b) of this Part, unless that purchase would also qualify as exempt under the Manufacturing Machinery and Equipment Exemption manufacturing---machinery---and---equipment exemption described in Section 130.330 of this Part or under the Graphic Arts Machinery and Equipment Exemption described in Section 130.325 of this Part.

5) No credit is earned for a purchase of tangible personal property that qualifies as an occasional sale, as described in subsection (a) of Section 130.110 (a) of this Part.

6) No credit is earned for a purchase of tangible personal property that is purchased for resale. (See subsection (a) of Section 130.210 (a) of this Part.)

b) Using Manufacturer's Purchase Credit

1) The credit may be used to satisfy Use Tax or Service Use Tax liability incurred on the purchase of qualifying production related tangible personal property. (See Section 3-85 of the Use Tax Act [35 ILCS 105/3-85] and Section 3-70 of the Service Use Tax Act [35 ILCS 110/3-70].) The credit may be applied only to the 6.25% State rate of tax incurred. Prior to the credit being

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earned, credit may not be used on a qualifying purchase, except as provided in subsection (e)(7)(B) below. However, the credit may be used the same day that it is earned, but must be followed by proper reporting of the credit as set out in subsections (c), (d), and (e) below. For purposes of when to use accumulated Manufacturer's Purchase Credit, a manufacturer or graphic arts producer is always safe to use the credit in a month after the month in which the credit was earned.

2) The credit is non-transferable and may not be used to satisfy the tax liability of any taxpayer other than the manufacturer or graphic arts producer that earned the credit.

A) A manufacturer or graphic arts producer may enter into a written contract with a construction contractor to authorize that construction contractor to utilize Manufacturer's Purchase Credit accumulated by the manufacturer or graphic arts producer for the purchase of tangible personal property to be installed into real estate within a manufacturing or graphic arts production facility for use in a production related process. The written contract must specify the specific dollar amount of Manufacturer's Purchase Credit that the construction contractor is authorized to utilize on behalf of the manufacturer or graphic arts producer.

B) To properly utilize the Manufacturer's Purchase Credit on behalf of the manufacturer or graphic arts producer when purchasing tangible personal property for installation into real estate within a manufacturing or graphic arts production facility for use in a production related process, the contractor must furnish the supplier with information stating:

i) The manufacturer's or graphic arts producer's name and address;

ii) The manufacturer's or graphic arts producer's registration or resale number; and

iii) A statement that a specific amount of Use Tax or Service Use Tax liability, not to exceed 6.25% of the selling price, is being satisfied with the Manufacturer's Purchase Credit.

C) To properly utilize the Manufacturer's Purchase Credit on behalf of the manufacturer or graphic arts producer when purchasing tangible personal property for installation into real estate within a manufacturing facility, the contractor must furnish the manufacturer or graphic arts producer with information stating:

i) Each vendor's or supplier's name and address (including, if applicable, either the vendor's or supplier's registration number or Federal Employer Identification Number);

ii) The date of purchase, purchase price, and description

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iii) of the tangible personal property purchased; and
 Tax liability, not to exceed 6.25% of the selling price, that was satisfied by the Manufacturer's Purchase Credit utilized for each purchase.

D) A credit reported under a particular Illinois Business Tax number may not be transferred to a related but separately registered division or company.

3) Production related tangible personal property means all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place, and all tangible personal property used or consumed by a manufacturer in a manufacturing facility--(See Section 3-85 of the Use Tax Act.)

A) All tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place.

B) All tangible personal property used or consumed in a production related process by a graphic arts producer in a graphic arts production facility in which a graphic arts production process described in Section 2-30 of the Retailers' Occupation Tax Act takes place.

C) All tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility. (See Section 3-85 of the Use Tax Act.)

4) By way of illustration and not limitation, the following uses of tangible personal property by a manufacturer in a manufacturing facility will be considered production related:

A) Tangible personal property purchased by a manufacturer for incorporation into real estate within a manufacturing facility for use in a production related process; or tangible personal property purchased by a construction contractor for incorporation into real estate within a manufacturing facility for use in a production related process pursuant to a written contract described in subsection (b)(2)(A) of this Section.

B) Supplies and consumables used in a manufacturing facility, including fuels, coolants, solvents, oils, lubricants, cleaners and adhesives.

C) Hand tools, protective apparel, and fire and safety equipment used or consumed in a manufacturing facility.

D) Tangible personal property used or consumed in a

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manufacturing facility for purposes of pre-production and post-production material handling, receiving, quality control, inventory control, storage, staging and packing for shipping or transportation.

- E) Fuel used in a ready-mix cement truck to rotate the mixing drum in order to manufacture concrete or cement. However, only the amount of fuel used to rotate the drum will qualify. The amount of fuel used or consumed in transportation of the truck will not qualify as production related tangible personal property. The amount of fuel used in a qualifying manner to rotate the drum may be stated as a percentage of the entire amount of fuel used or consumed by the ready-mix truck.

- F) Tangible personal property purchased by a graphic arts producer for incorporation into real estate within a graphic arts production facility for use in a production related process, or tangible personal property purchased by a construction contractor for incorporation into real estate within a graphic arts production facility for use in a production related process pursuant to a written contract described in subsection (b)(2)(A) of this Section.

- G) Supplies and consumables used in a graphic arts production facility, including solvents, oils, lubricants, cleaners and adhesives. Paper and ink that is transferred to a customer does not qualify as production related tangible personal property.

- H) Hand tools, protective apparel, and fire and safety equipment used or consumed in a graphic arts production facility.

- I) Tangible personal property used or consumed inside a graphic arts facility for purposes of preliminary or pre-press production, pre-production material handling, receiving, quality control, inventory control, storage, staging, sorting, labeling, mailing, tying, wrapping and packaging.

- 5) By way of illustration and not limitation, the following uses of property will not be considered production related:

- A) The use of trucks, trailers, and motor vehicles which are required to be titled or registered pursuant to the Illinois Motor Vehicle Code [625 ILCS 5], and aircraft or watercraft required to be registered with an agency of State or Federal government.

- B) Office supplies, computers, desks, copiers and equipment which are used for sales, purchasing, accounting, fiscal management, marketing and personnel recruitment or selection activities, even if such use takes place within a manufacturing or graphic arts production facility.

- C) Tangible personal property used or consumed for aesthetic or decorative purposes, including landscaping and artwork.

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- D) Tangible personal property used or consumed outside the manufacturing or graphic arts production facility, including tangible personal property listed in subsections (b)(4)(D) and (b)(4)(I) above with the exception of tangible personal property used or consumed for research and development purposes.

- E) Tangible personal property purchased by a construction contractor for incorporation into a manufacturing or graphic arts production facility, unless such purchase by the construction contractor was made on behalf of a manufacturer or graphic arts producer pursuant to a written contract described in subsection (b)(2)(A) of this Section.

- 6) The credit may be used to satisfy the State portion (6.25%) of a Use Tax or Service Use Tax liability arising under audit where the liability established is the result of:

- A) an erroneous claim of the Manufacturing Machinery and Equipment Exemption provided in Section 2-45 of the Retailers' Occupation Tax Act,

- B) an erroneous claim of the Graphic Arts Machinery and Equipment Exemption provided in Section 2-5(4) of the Retailers' Occupation Tax Act, or

- C) where the manufacturer failing failed to self-assess and remit Use Tax or Service Use Tax on the purchase of production related tangible personal property.

(See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.) The credit may only be used to satisfy the State portion (6.25%) of a Use Tax or Service Use Tax liability incurred on the purchase of qualifying production related tangible personal property. Under no circumstances may the credit be used to satisfy penalty and interest or other tax liability incurred by the manufacturer or graphic arts producer.

- 7) Credit may be used to satisfy the State portion (6.25%) of a qualifying Use Tax or Service Use Tax liability incurred by a manufacturer or graphic arts producer on a purchase of production related tangible personal property when payment of tax must be made directly to the Department.

- 8) The credit expires December 31st of the second calendar year following the calendar year in which the credit was earned. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.) However, for credit earned on or after June 30, 1995, the life of unreported credit may be extended during the period of an agreed extension of the statute of limitations as provided in subsection (e)(7) below.

- 9) A manufacturer or graphic arts producer may use credit to satisfy Service Use Tax liability only when purchasing production related tangible personal property transferred incident to a sale of service.

- c) Reporting Manufacturer's Purchase Credit Earned or Used for Periods

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from January 1, 1995 through June 29, 1995

- 1) In order to validate credit earned as the result of a qualifying purchase of exempt manufacturing machinery and equipment or credit used on a qualifying purchase, the manufacturer must report credit earned to the Department in a timely manner. Failure to report credit earned will result in expiration of the credit as of the date earned.
- 2) On forms prescribed or approved by the Department, a manufacturer must report credit earned or used by the last day of the second month following the month of creation or use of the credit. No credit report is required for any month in which a manufacturer neither earned nor used credit. Original invoices or copies of original invoices are not to be filed with the Department.
- 3) Credit Use or Misuse Causing Expiration of Credit. Credit used, whether properly or improperly, expires upon use and cannot be recreated once used. The manufacturer may be liable for tax, penalty and interest on the purchase of production related tangible personal property where expired credit was used, in accordance with provisions of the Uniform Penalty and Interest Act [35 ILCS 735]. The following represent examples of uses of credit that will result in expiration of the credit:
 - A) Failure to report credit or use of credit.
 - B) Failure to timely report credit or use of credit.
 - C) Use of credit prior to actually earning credit as described in subsection (a)(3) above.
 - D) Return of goods to supplier for full refund including tax where credit was tendered in payment of tax. Credit expires once used and cannot be recreated once used regardless of reason for return.
- 4) A purchaser earning Manufacturer's Purchase Credit must maintain records, as to each purchase of manufacturing machinery and equipment on which the purchaser earned Manufacturer's Purchase Credit, that identify the following:
 - A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);
 - B) The date of purchase, purchase price, and description of the exempt manufacturing machinery and equipment; and
 - C) The amount of Manufacturer's Purchase Credit earned on that purchase.
- 5) A purchaser using Manufacturer's Purchase Credit must maintain records, as to each purchase of production related tangible personal property on which the purchaser used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability, that identify the following:
 - A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);

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- B) The date of purchase, purchase price, and description of the production related tangible personal property; and
- C) The amount of Manufacturer's Purchase Credit used to satisfy the purchaser's Use Tax or Service Use Tax liability on that purchase.
- 6) As determined pursuant to audit by the Department, credit earned by purchase of exempt machinery and equipment that has not been timely and properly reported will result in expiration of the credit. Use of expired credit in this situation may result in an assessment for tax, penalty and interest on the subsequent purchase of production related tangible personal property. Credit that was properly reported when earned but was not timely and properly reported to the Department when used will likewise expire resulting in an assessment for tax, penalty and interest on the purchase of production related tangible personal property for which it was offered in payment of Use Tax or Service Use Tax liability.
- d) Reporting Manufacturer's Purchase Credit Earned or Used on June 30, 1995
 - 1) The reporting requirements for Manufacturer's Purchase Credit were changed by Public Act 89-89, effective June 30, 1995. In order to provide consistent and easier reporting requirements for manufacturers utilizing Manufacturer's Purchase Credit and the Department's Administration of the Manufacturer's Purchase Credit program, manufacturers are required to report Manufacturer's Purchase Credit earned or used on June 30, 1995, under the methods described in subsection (c) of this Section. However, the Manufacturer's purchase Credit earned or used on that date will be subject to the provisions described in subsection (e) of this Section without the necessity of including those Manufacturer's Purchase Credits in an Annual Report of Manufacturer's Purchase Credit Earned or an Annual Report of Manufacturer's Purchase Credit Used.
 - 2) A manufacturer filing an amended Annual Manufacturer's Purchase Credit Report under subsection (e)(7) of this Section that includes Manufacturer's Purchase Credit earned or used on June 30, 1995, must disclose that such report includes Manufacturer's Purchase Credit earned or used on June 30, 1995.
- e) Reporting Manufacturer's Purchase Credit Earned or Used for Periods periods on or after July 1, 1995
 - 1) In order to validate credit earned as the result of a qualifying purchase of exempt manufacturing machinery and equipment or exempt graphic arts machinery and equipment, the manufacturer or graphic arts producer must report credit earned to the Department by signing and filing an Annual Report of Manufacturer's Purchase Credit Earned for each calendar year no later than the last day of the sixth month following the calendar year in which the Manufacturer's Purchase Credit is earned. The Annual Report of

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Manufacturer's Purchase Credit Earned shall be filed on forms prescribed or approved by the Department and shall state, for each month of the calendar year:

- A) The total purchase price of all purchases of exempt manufacturing machinery and equipment or graphic arts machinery and equipment on which the credit was earned;
 - B) The total State Use Tax or Service Use Tax which would have been due on those items;
 - C) The percentage used to calculate the amount of credit earned;
 - D) The amount of credit earned; and
 - E) Such other information as the Department may reasonably require. (See Section 3-85 of the Use Tax Act.)
- 2) A purchaser earning Manufacturer's Purchase Credit must maintain records, as to each purchase of manufacturing machinery and equipment and graphic arts machinery and equipment on which the purchaser earned Manufacturer's Purchase Credit, that identify the following:

- A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);
- B) The date of purchase, purchase price, and description of the exempt manufacturing machinery and equipment and graphic arts machinery and equipment; and
- C) The amount of Manufacturer's Purchase Credit earned on that purchase.

- 3) In order to validate credit used to satisfy the tax liability on purchases of production related tangible personal property, the purchaser or graphic arts producer must report credit used to the Department by signing and filing an Annual Report of Manufacturer's Purchase Credit Used for each calendar year no later than the last day of the sixth month following the calendar year in which the Manufacturer's Purchase Credit is used. The Annual Report of Manufacturer's Purchase Credit Used shall be filed on forms prescribed or approved by the Department and shall state, for each month of the calendar year:

- A) The total purchase price of all production related tangible personal property purchased from Illinois vendors or suppliers;
 - B) The total purchase price of all production related tangible personal property purchased from out-of-State vendors or suppliers;
 - C) The total amount of Manufacturer's Purchase Credit used during each month; and
 - D) Such other information as the Department may reasonably require. (See Section 3-85 of the Use Tax Act.)
- 4) A purchaser using Manufacturer's Purchase Credit must maintain records, as to each purchase of production related tangible

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personal property on which the purchaser used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability, that identify the following:

- A) The vendor or supplier (including, if applicable, either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);

- B) The date of purchase, purchase price, and description of the production related tangible personal property; and

- C) The amount of Manufacturer's Purchase Credit used to satisfy the purchaser's Use Tax or Service Use Tax liability on that purchase.

- 5) No Annual Report of Manufacturer's Purchase Credit Earned or Annual Report of Manufacturer's Purchase Credit Used may be filed with the Department before May 1, 1996. (Section 3-85 of the Act)

- 6) A purchaser that fails to properly file an Annual Report of Manufacturer's Purchase Credit Earned or an Annual Report of Manufacturer's Purchase Credit Used with the Department by the last day of the sixth month following the end of the calendar year forfeits all Manufacturer's Purchase Credit earned or used for that calendar year, unless the purchaser establishes that the purchaser's failure to file was due to reasonable cause.

- 7) Annual Manufacturer's Purchase Credit reports may be amended to report and claim credit on qualifying purchases of manufacturing machinery and equipment and graphic arts machinery and equipment not previously reported at any time before the credit would have expired, unless both the Department and the purchaser have agreed to an extension of the statute of limitations for the issuance of a Notice of Tax Liability as provided in Section 4 of the Retailers' Occupation Tax Act. However, such an agreed extension will not restore a credit that has previously been reported and has expired prior to the agreed extension. Manufacturer's Purchase Credit that had not been previously reported and is included in an amended Annual Report submitted as a result of such an agreed extension will expire as provided in subsection (b)(8) of this Section or at the end of the agreed extension period, whichever is longer. If the time for assessment or refund has been extended by agreement, amended reports for a calendar year may be filed at any time prior to the date to which the statute of limitations for the calendar year or portion thereof has been extended. Manufacturer's Purchase Credit claimed on an amended report may be used to satisfy tax liability under the Use Tax Act or the Service Use Tax Act on:

- A) Qualifying purchases of production related tangible personal property made after the date the amended report is filed; or
- B) Amounts assessed by the Department on purchases made on or after January 1, 1995, of machinery and equipment that did not qualify for the exemption described in Section 130.330 of this Part, but would have qualified as production related

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tangible personal property. The credit will be applied to the tax portion of the assessment liability as of the date that the Department receives a written request by the purchaser directing the Department to apply the credit to the assessment liability of:

- C) Amounts assessed by the Department on purchases made on or after July 1, 1996 of machinery and equipment that did not qualify for the exemption described in Section 130.325 of this Part, but would have qualified as production related tangible personal property. The credit will be applied to the tax portion of the assessment liability as of the date that the Department receives a written request by the purchaser directing the Department to apply the credit to the assessment liability.

- 8) A purchaser who used Manufacturer's Purchase Credit to satisfy the purchaser's Use Tax or Service Use Tax liability incurred on the purchase of property that is later determined not to qualify as production related tangible personal property may be liable for tax, penalty, and interest on the purchase of that property as of the date of the purchase. However, the purchaser is entitled to use such disallowed Manufacturer's Purchase Credit, so long as it has not expired, on qualifying purchases of production related tangible personal property not previously subject to credit usage.

- f) Retailers or Servicemen Accepting Manufacturer's Purchase Credit

- 1) In order to accept Manufacturer's Purchase Credit from a manufacturer or graphic arts producer, the supplier or serviceman must obtain a Manufacturer's Purchase Credit certificate from the manufacturer or graphic arts producer unless the manufacturer or graphic arts producer has incorporated its certification into the manufacturer's or graphic arts producer's purchase order as described below. The manufacturer or graphic arts producer may provide the certification on a form provided by the Department or on the manufacturer's or graphic arts producer's own form containing the appropriate information. The certificate must be kept in the supplier's or serviceman's books and records, but need not be submitted to the Department with the supplier's or serviceman's return. A Manufacturer's Purchase Credit certificate must contain the following information:

- A) A signed statement that the manufacturer or graphic arts producer is using available accumulated Manufacturer's Purchase Credit to satisfy all or part of the 6.25% portion of Use Tax or Service Use Tax liability incurred on a qualifying purchase of production related tangible personal property;

- B) The manufacturer's or graphic arts producer's name and address;

- C) The manufacturer's or graphic arts producer's registration

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number, if registered;

- D) The date of purchase of the production related tangible personal property; and

- E) The credit being used. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)

- 2) A manufacturer or graphic arts producer may incorporate the Manufacturer's Purchase Credit certification into the manufacturer's or graphic arts producer's purchase order if all of the required information is contained within that purchase order.

- 3) Manufacturer's Purchase Credit accepted by the supplier or serviceman may be used by the supplier or serviceman to satisfy its liability incurred under the Retailers' Occupation Tax Act or Service Occupation Tax Act, so long as the supplier or serviceman complies with the following:

- A) The supplier or serviceman may not accept credit in excess of 6.25% of the purchase price of qualifying production related tangible personal property. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)

- B) The supplier or serviceman must properly report acceptance of the credit to the Department in order to be entitled to use of the credit in satisfaction of Retailers' Occupation Tax or Service Occupation Tax liability.

- g) Lessors Barring and Using Manufacturer's Purchase Credit

- 1) A lessor leasing exempt manufacturing machinery and equipment to a manufacturer or graphic arts producer, and equipment to a graphic arts producer may earn Manufacturer's Purchase Credit when purchasing such machinery and equipment, in the same manner as a manufacturer or graphic arts producer.

- 2) A lessor leasing qualifying production related tangible personal property to a manufacturer or graphic arts producer may use Manufacturer's Purchase Credit when purchasing such qualifying property in the same manner as a manufacturer or graphic arts producer. (See Section 3-85 of the Use Tax Act and Section 3-70 of the Service Use Tax Act.)

- 3) A lessor of exempt machinery and equipment and qualifying production related tangible personal property must report the accumulation and use of credit in the same manner as required for manufacturers or graphic arts producers.

- 4) Since the Manufacturer's Purchase Credit is a non-transferable credit, a lessor may not use credit earned by a lessee, nor may a lessor transfer credit it has earned to a lessee.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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- a) Notwithstanding the fact that the sales may be at retail, sales of pollution control facilities are exempt from the Retailers' Occupation Tax. This exemption extends to and includes the purchase of pollution control facilities by a contractor who retransfers the facilities to his customer in fulfillment of a contract to furnish such pollution control facilities to, and to install them for, his customer. The phrase "pollution control facilities" means any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act [415 ICS 5] (415 Rev. Stat. 1989 ch. 113-7/27-1989-1061-44-1989-7, or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property. This exemption includes not only the pollution control equipment itself, but also replacement parts therefor, but does not extend to chemicals used in any such equipment, to fuel used in operating any such equipment nor to any other tangible personal property which may be used in some way in connection with such equipment, but which is not an integral part of the equipment itself. If the purchaser or his contractor-installer buys an item that could reasonably qualify for exemption as a pollution control facility for use as a pollution control facility, the purchaser or his contractor-installer should certify this intended use of the item to the seller in order to relieve the seller of the duty of collecting and remitting the tax on the sale, but the purchaser who is buying the item in question allegedly for his use as a pollution control facility will be held liable for the tax by the Department if it is found that such purchaser does not use the item as a pollution control facility.
- 1) Asbestos removal systems. This exemption includes devices, materials, and equipment that are integral component parts of an asbestos removal system if the primary purpose of those items is to eliminate, reduce, or prevent pollution. These items may include, but are not limited to:
- A) Protective suits or clothing;
 - B) Respirators;
 - C) Gloves and glove bags;
 - D) Filters and vacuum filtration equipment;
 - E) encapsulate materials;
 - F) materials, such as plastic sheeting, lumber, and adhesive tape, that are used to construct containment areas or air locks;
 - G) portable shower units, including water traps and filters, used to decontaminate equipment and personnel;
 - H) plastic bags used for disposal of asbestos; and
 - I) wetting agents used to remove asbestos dust from the air.

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- 2) Chemicals used for filtration. This exemption includes any chemical that is primarily utilized for filtration purposes as an integral component of a system for eliminating, reducing, or preventing pollution. Examples of the use of such chemicals include the use of sodium hypochlorite, sodium hydroxide, hydrochloric acid, and nitric acid to filter pollutants in holding tanks and ground limestone mixed with water to remove sulfur dioxide from flue gases.
- 3) Equipment and materials used at landfills. This exemption includes devices, materials, and equipment that are integral component parts of a landfill operation if the primary purpose of those items is to eliminate, reduce, or prevent pollution. These items may include, but are not limited to:
- A) membranes and liners;
 - B) filters;
 - C) materials used in construction leachate collection systems;
 - D) materials used in construction landfill gas flare and blower systems to combust and treat landfill gases;
 - E) litter control fences;
 - F) erosion control materials used to prevent water from entering the landfill site and creating water pollution;
 - G) sweepers used to remove debris from landfill sites; and
 - H) bulldozers and excavators that are used to cover waste materials.
- 4) Pollution control monitoring devices. Pollution control monitoring devices that do not prevent, reduce, or eliminate pollution or treat, pretreat, modify, or dispose of any pollutants do not qualify for the pollution control facilities exemption. However, if the pollution control monitoring devices directly adjust other devices that actually reduce or prevent pollution, the pollution control monitoring devices will qualify for the pollution control facilities exemption.
- b) Low Sulfur Dioxide Emission Coal-Fueled Devices
- 1) Notwithstanding the fact that the sales may be at retail, sales of low sulfur dioxide emission coal-fueled devices are exempt from the Retailers' Occupation Tax. This exemption extends to and includes the purchase of such a device, or materials to construct such a device which are physically incorporated into the device, by a contractor who retransfers the device to his customer in fulfillment of a contract to furnish such a device to, and install it for, his customer.
- 2) Low sulfur dioxide emission coal-fueled devices means any device sold or intended for the purpose of burning, combusting or converting locally available coal in a manner which eliminates or significantly reduces the need for additional sulfur dioxide abatement that would otherwise be required under State or Federal air emission standards which will be determined by evaluating the output of sulfur dioxide from the device and consultation with

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the Pollution Control Board to determine if the device meets their standards and could be certified as a low sulfur dioxide emission device. With respect to coal gasification facilities, such devices include all machinery, equipment, structures and related apparatus including coal-feeding equipment designed to convert locally available coal into a low sulfur gaseous fuel and to manage all waste and by-product streams. (Section 1a-1 of the Act)

3) The exemption includes only the device and replacement parts. It does not extend to chemicals, catalysts, additives or fuels used in the combustion or conversion process. For devices which are not a part of a coal gasification facility, the exemption will not apply to buildings in which the device may be located, nor to machinery and equipment which may receive, store or process coal prior to its burning, combustion or conversion, nor to machinery and equipment used to distribute coal products, steam or energy from the process or remove waste products resulting from the process. For devices which are a part of a coal gasification facility, the exemption will include all machinery, equipment, structures and related apparatus including coal-feeding equipment and equipment to manage waste and by-product streams. A device will qualify for the exemption even if it serves an industrial, manufacturing or other purpose which confers an economic benefit on the purchaser or is used for other purposes in addition to the burning, combusting or converting coal.

4) The device must use or be intended to use locally available coal, i.e., coal mined in Illinois.

5) Coal conversion includes a variety of processes which produce coal gas, liquid fuel or solid fuels. It does not encompass coal production or preparation techniques such as washing, crushing or pelletization of coal.

6) The device or the operation in which it is used must be subject to State or Federal emission control standards and must, in its operation, eliminate or significantly reduce the need for supplementary sulfur dioxide abatement that would otherwise be required.

c) Generally, vehicles, such as garbage trucks and refuse hauling trucks, whose primary purpose is to haul garbage from one point to another do not qualify for the pollution control facilities exemption. (See XL Disposal Corporation, Inc. v. Kenneth Zehnder (304 Ill.App.3d 202, 70 N.E.2d 293 (4th Dist. 1999))). However, escort trucks that are used primarily as part of a system of preventing or reducing potential pollution in the case of a spill by a vehicle transporting pollutants may qualify for the pollution control facilities exemption. (See Beelman Truck Company v. Cosentino (253 Ill.App.3d 420, 624 N.E.2d 454 (5th Dist. 1993))).

(Source: Amended at 24 Ill. Reg. _____, effective

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Section 130.345 Oil Field Exploration, Drilling and Production Equipment

a) General

1) Prior to June 25, 1996, notwithstanding Notwithstanding the fact that the sales may be at retail, the Retailers Occupation Tax Act does not apply to sales of new or used oil field exploration, drilling, and production equipment costing \$250 or more, including rigs and parts of rigs; rotary rigs; cable tool rigs; workover rigs; pipe and tubular goods, including casing and drill strings; pumps and pump-jack units; storage tanks and flow lines; any individual replacement part for oil field exploration, drilling, and production equipment, if the replacement part costs in excess of \$250; and machinery and equipment purchased for lease, but excluding motor vehicles required to be registered pursuant to the Illinois Vehicle Code. ~~Oil-field-exploration-drilling, and--production-equipment-costing--\$250--or--more--including--(i)--rigs-and-parts-of-rigs--rotary-rigs--cable-tool-rigs--and-workover-rigs--(ii)--pipe-and-tubular-goods--including casing-and-drill-strings--(iii)--pumps-and-pump-jack-units--(iv) storage-tanks-and-flow-lines--(v)--any-individual-replacement-part for-oil-field-exploration-drilling-and-production-equipment--if the--replacement-part-costs-in-excess-of--\$250--(vi)--machinery-and equipment--purchased--for--lease--but--excluding--motor-vehicles required-to-be-registered-pursuant-to-the-illinois-vehicle-code section--2-5(f)(9)--of-the-Act~~. On and after June 25, 1996, the exemption is not conditioned upon the \$250 purchase threshold requirement.

2) Oil field exploration, drilling and production A) This exemption applies only to equipment used primarily in the oil field exploration, drilling and production. Use of the equipment in any other type of exploration, drilling or mineral production will not be a qualified use and such equipment will be subject to tax. The equipment used in drilling, production or exploration of minerals, coal or water is not a qualified use of such equipment and will be subject to the full rate of tax. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Motor Vehicle Code (625 ILCS 5/1-1-Rev--Stat--1999--ch--95-1/2--par-1-109-et-seq.). Special mobile equipment other than motor vehicles may qualify for the exemption if they are used primarily in oil field exploration, drilling or production. The exemption does not include supplies (such as drilling mud, well cement, acid, chemicals or explosives), coolants, lubricants, adhesives, solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons,

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masks, mask air filters, belts, harnesses or holsters), coal, fuel oil, electricity, natural gas, artificial gas, steam, gasoline, diesel fuel, refrigerants, water or chemical additives to crude oil.

B) "oil field exploration" means the search for oil or natural gas. Exploration includes: Seismic studies, core testing and the drilling of test wells (wildcat wells).

C) "Drilling" means the act of boring a hole through which oil or gas may be produced if encountered in commercial quantities.

D) "Production" means the act or process of producing oil or gas.

E) "Drilling rigs" include rotary, cable tool and workover rigs and parts thereof.

F) "Production lease" means the land described in a lease instrument on which drilling for the production of oil or gas occurs.

G) "Pipe and tubular goods" include casing, drill strings, rods and wire rope. Prior to June 25, 1996, "pipe and tubular goods" sold by the linear foot qualify for the reduction if the cost of the total length sold in an individual transaction or sale exceeds \$250. On and after June 25, 1996, there is no such limitation.

H) "Production equipment" includes gasoline, diesel and electric engines used as a power source, pumps and pump-jack units and parts thereof, storage tanks, flow lines and parts thereof located on the producing lease.

I) "Kits" means kits comprised of several parts which are ordered from a manufacturer, inventoried and sold by a retailer as a single item, and items, such as a pump, which are assembled by the retailer at the time of sale from components selected by the purchaser and which are sold as a unit. Prior to June 25, 1996, kits will be treated as a single item for the purposes of the \$250 per individual item limitation. On and after June 25, 1996, there is no such limitation.

b) Nonexempt Illustrations

By way of illustration and not limitation, the following activities will not be considered oil field exploration, drilling, or use of production equipment:

- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate. Material, such as steel, concrete, rock and other building material, will not qualify for the exemption;
- 2) the use of equipment in general maintenance or repair work on exploration, drilling or production equipment;
- 3) the use of equipment in research and development for drilling or

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oil field production or exploration;
4) the use of equipment off the production lease to store, convey, handle or transport oil;

5) the use of equipment, trailers or structures in management, sales or other nonproduction, nonoperational activities including inventory control, production or drilling scheduling, purchasing, receiving, accounting, fiscal management, communications, security, marketing, product exhibition and promotion, personnel recruitment, selection or training;

6) the use of equipment to prevent or fight fires, protective equipment such as face masks, helmets, gloves, coveralls, goggles, gas masks or for safety or accident protection or first-aid, even though such equipment may be required by law;

7) the use of equipment for ventilation, heating or illumination not required by the exploration, drilling or production process.

c) Sales to Lessors of Oil Field Exploration, Drilling and Production Equipment

1) For the exemption to apply, the purchaser need not, himself, employ the equipment in oil field exploration, drilling or production. If the purchaser leases that equipment to a lessee-explorer, driller or producer who uses it in a qualified manner, the sale to the purchaser-lessee will be eligible for the reduced rate of tax. A supplier may exclude such sales from his taxable gross receipts provided the purchaser-lessee provides to him a properly completed certificate and the information contained therein would support an exemption if the sale were made directly to the lessee-explorer or driller or producer.

2) Should a purchaser-lessee subsequently lease the equipment to a lessee who does not use it in a manner that would qualify for the reduction, the purchaser-lessee will become liable for the tax which he previously did not pay.

d) Certificates of Qualified Use

Certificates must be executed by the purchaser at the time of purchase. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used for oil field exploration or oil field drilling or as oil field production equipment. Retailers may accept blanket certificates, but have the responsibility to obtain, and must maintain, all certificates as part of their books and records. An item of oil field production, oil field drilling or oil field exploration equipment, which is initially used in oil field production, oil field drilling or oil field exploration and having been so used for less than one-half of its useful life, if converted to nonqualified uses, will become subject to tax at the time of conversion. ~~Such tax will be collected on the price of the equipment as was taxed at 6 1/2% or was exempt at the time the sale or lease was made.~~

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130-350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

a) General. Prior to June 24, 1996, notwithstanding **Notwithstanding** the fact that the sales may be at retail, the Retailers Occupation Tax Act does not apply to sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment costing \$250-00 or more. The exemption also applies to individual replacement parts for coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment when the replacement part costs \$250-00 or more. Equipment and parts sold by the linear foot or similar measurement qualify for the exemption if the cost of the total length sold in an individual transaction or sale exceeds \$250-00. The exemption also applies to equipment and replacement parts costing \$250-00 or more purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5/]. ~~§§11-1-Rev--State--1989--Ch-130-350-Par-1-400-et-seq-~~ On and after June 24, 1996, the exemption is not conditioned upon the \$250 purchase threshold requirement.

1) This exemption applies only to equipment used primarily in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance or reclamation will not qualify for this exemption. Excluded from this reduction are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in coal exploration, mining, off highway hauling, processing, maintenance or reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, adhesives and explosives), coolants, lubricants, items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

2) "Coal Exploration" means the search for coal. Exploration includes, but is not limited to, excavating and drilling to locate coal deposits.

3) "Mining" means the extraction of coal from the earth by underground and surface mining and includes the extraction of coal by the mine owner or operator or his nonpurchaser successors from the waste or residue of prior mining.

4) "Off Highway Hauling" means carrying or transporting and would include transport of overburden, waste material, including gob from processing facility for disposal, and coal from the coal seam to the processing facility by conveyors or unlicensed

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vehicles.
5) "Processing" means preparation activities performed directly on the coal which are necessary for converting coal into a finished product so that it is ready for sale. Processing includes, but is not limited to, sizing, crushing, drying and washing.

6) "Maintenance" means keeping coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.

7) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

8) "Replacement Parts" means parts that ~~which~~ are used to replace parts of qualifying equipment and that ~~which-parts~~ require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of coal exploration, mining, off highway hauling, processing, maintenance or reclamation equipment ~~and must cost \$250-00 or more~~. Prior to June 24, 1996, there is a requirement that such replacement parts cost \$250 or more. On and after June 24, 1996, there is no such limitation.

9) "Kits" means commercially-packaged sets of parts which are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. Prior to June 24, 1996, a kit will be treated as a single item for purposes of the \$250-00 per item limitation. The \$250-00 per item limitation is also satisfied when an item to be used primarily in a qualifying activity is assembled by the retailer at the time of sale from components selected by the purchaser and which is sold as a unit if the unit, as sold, costs \$250-00 or more. On and after June 24, 1996, there is no such limitation. An exempt example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.

b) Exempt Activities
By way of illustration and not limitation, the following activities will be considered to constitute coal exploration, mining, off highway hauling, processing or maintenance:

1) Coal is produced in a surface mining operation that begins with the clearing of surface obstacles and overburden from the land above the coal deposit to be mined, continues with the removal of waste material and with the extraction of the coal, continues with the transportation from the coal seam to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material from a subsequently mined area, continue further with the processing of the coal, and ends with the stockpiling of the coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:

A) Equipment used to drill holes for blasting material to

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dislodge the overburden and to transport the blasting material.

- B) Equipment used to remove overburden and other waste materials from the pit to be mined.
 - C) Equipment used to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment.
 - D) Pumps and hose used to remove water or to divert water from the active pit area.
 - E) Equipment used to load the overburden, waste material or coal to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.
 - F) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or coal to the processing facility.
 - G) Equipment used in grading, refilling and covering over a previously mined pit with the overburden removed from the next pit being mined.
 - H) Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.
 - I) Equipment used in a coal wash plant to clean the coal prior to sale to customers.
 - J) Equipment used to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.
- 2) Coal is produced in an underground mining operation that begins with the boring of a shaft from the surface to the coal deposit to be mined, continues with the removal of waste material and the extraction of coal, continues further with the transportation from the coal seam to the processing facility, continues further with the installation of roof supports and the coating of walls with rock dust to prevent mine explosions and collapse, continues further with the processing of coal and disposal of waste material from the mine and processing facility, and ends with the stockpiling of coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:
- A) Continuous miners used to bore the shaft, cut the coal and load it into shuttle cars.
 - B) Shuttle cars used to transport the coal from the continuous miner to the feeder-breaker at the end of a conveyor belt or other transportation system.
 - C) The feeder-breaker which breaks the large lumps of coal and feeds the coal onto the conveyor belt which carries the coal outside the mine where it is stockpiled or transported to the processing facility.

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- D) Equipment used to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment.
 - E) Pumps and hose used to remove water from the underground mine.
 - F) Equipment used to install roof bolt supports and side rib bolt supports to prevent mine collapse.
 - G) Equipment used to coat mine walls with inert limestone as the coal is removed to prevent explosions caused by the escape of volatile materials.
 - H) Equipment installed as improvements to real estate in underground mining such as elevators, rail, ventilating and illuminating systems.
- 11 The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of underground mine structures. Materials, such as lumber, steel, concrete, rock and other building materials, qualify for the exemption only when used in underground mine structures.
- 12 Additions to exempt underground rail conveyors, ventilating and illumination systems due to the progression of mining will be considered as exempt, as long as, prior to June 24, 1996, the addition is valued at \$250-00 or more. On and after June 24, 1996, there is no such limitation.
- 13 Longwall equipment consisting of shields, shears, face conveyors and related equipment.
- 14 Tangible personal property used in or for the purpose of temporarily storing raw coal before processing is exempt if the raw coal is ultimately processed for resale and is in fact resold.
- 15 Equipment used in a coal wash plant to clean the coal prior to sale to customers.
- 16 Equipment used to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.
- 3) By way of illustration and not limitation, the following maintenance equipment is exempt:
- A) Unlicensed maintenance and welding trucks used for field repair of exempt equipment.
 - B) Lathes, drill presses, air compressors and welders used to work repair parts.
 - C) Mobile and overhead cranes.
- 4) By way of illustration and not limitation, the following coal exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:
- A) Drill rigs used to drill exploration core holes.
 - B) Water trucks used in the drilling process.
 - C) Winch and casing trucks used in the drilling process.

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D) Field maintenance trucks used to make repairs on field equipment.

E) Air compressors.

c) Nonexempt Activities

By way of illustration and not limitation, the following activities will not be considered to constitute coal exploration, mining, off highway hauling, processing or maintenance:

1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures;

2) The use of equipment in research and development for new uses of coal;

3) The use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production of extraction scheduling, purchasing, receiving, accounting, fiscal management and communications, security, marketing, product exhibition and promotion, personnel recruitment, selection or training;

4) The use of equipment to prevent or fight fires or other mining ~~mine~~ hazards, protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, even though such equipment and supplies may be required by law;

5) The use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance or reclamation operation;

6) Facilities for storing coal after extraction ~~from the mine~~ and processing;

7) Front-end loaders, cranes, equipment used to load coal onto trucks, railcars or barges for delivery to customers.

d) Sales to Lessors of Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

1) For the exemption to apply, the purchaser need not, himself, employ the equipment in coal exploration, mining, off highway hauling, processing, maintenance or production. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption.

A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessor provides him with a properly completed certificate and the information contained therein would support a reduction if the sale were made directly to the lessee.

2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify

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for the reduction, the purchaser-lessor will become liable for the tax which he previously did not pay.

e) Purchaser Certification
Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for coal exploration, mining, off highway hauling, processing, maintenance or reclamation. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment which is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. ~~Such tax will be collected on the portion of the equipment price that was taxed at the time of sale or lease was made. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use. Such tax will be collected on the replacement part cost that was exempt or taxed at the time the sale or lease was made.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.351 Aggregate Manufacturing

a) General. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment used for the exploration and mining of mineral deposits and for the manufacture of resultant aggregate products. The exemption also applies to individual replacement parts for aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. The exemption also applies to equipment and replacement parts purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5].

1) "Aggregate" shall mean any mineral deposit or finished product including but not limited to sand, gravel, stone, clay, industrial minerals, composites or other mineral solids, except coal.

2) This exemption applies only to equipment used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance

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or reclamation will not qualify for this exemption. Excluded from this reduction are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, adhesives and explosives), coolants, lubricants, items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

- 3) "Aggregate Exploration" means the search for aggregate. Exploration includes, but is not limited to, excavating, dredging, and drilling to locate aggregate deposits.
- 4) "Mining" means the extraction of aggregate from the earth by underground and surface mining and includes the extraction of aggregate by the mine owner or operator or his nonpurchaser successors from the waste or residue of prior mining.
- 5) "Off Highway Hauling" means carrying or transporting and including transport of overburden or waste material, including byproduct materials from the processing facility for disposal and aggregate from the aggregate deposit to the processing facility by conveyors or unlicensed vehicles.
- 6) "Processing" means preparation activities performed directly on the aggregate that are necessary for converting aggregate into a finished product so that it is ready for sale. Processing includes, but is not limited to, sizing, crushing, drying and washing.

7) "Maintenance" means keeping aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.

8) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

9) "Replacement Parts" means parts that are used to replace parts of qualifying equipment that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation equipment.

10) "Kits" means commercially packaged sets of parts that are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. An exempt example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.

b) Exempt Activities. By way of illustration and not limitation, the following activities will be considered to constitute aggregate exploration, mining, off highway hauling, processing or maintenance:

- 1) Aggregate is produced in a surface mining operation that begins

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with the clearing of surface obstacles and overburden from the land above the aggregate deposit to be mined, continues with the removal of waste material and with the extraction of the aggregate, continues with the transportation from the aggregate deposit to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material, continues further with the processing of the aggregate, and ends with the stockpiling of the aggregate. By way of illustration and not limitation, the following equipment is exempt:

- A) Equipment used to drill and load holes for blasting material used to fracture aggregate for extraction and to transport the blasting material.
- B) Equipment used to remove overburden and other waste materials from the deposit to be mined.
- C) Equipment used to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment.
- D) Pumps, hoses, piping and discharge apparatus, used in the movement or removal of water or to divert water from the active mine area.
- E) Equipment used to load the overburden, waste material or aggregate to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.
- F) Equipment used to extract aggregate from the earth.
- G) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or aggregate to the processing facility.
- H) Equipment used to backfill, grade, seed, plant or otherwise reclaim previously mined land.
- I) Crushing, screening and other equipment used to beneficiate and size aggregate products.
- J) Tangible personal property used in or for the purpose of temporarily storing aggregate before processing is exempt if the aggregate is ultimately processed for resale and is in fact resold.
- K) Equipment used in an aggregate wash plant to clean the aggregate prior to sale to customers.
- L) Equipment used to blend different grades of aggregate together so that the final product meets customer specifications.
- M) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field.
- 2) Aggregate is produced in an underground mining operation that begins with creating access from the surface to the aggregate deposit to be mined, continues further with the installation of roof supports, continues with the removal of waste material and

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the extraction of aggregate, continues further with the transportation from the aggregate deposit to the processing facility, continues further with the processing of aggregate and disposal of waste material from the mine and processing facility, and ends with the stockpiling of aggregate. By way of illustration and not limitation, the following equipment is exempt:

- A) Equipment used to create access to the aggregate deposit and load aggregate into conveyor belts, trucks, or other conveyances used to transport aggregate from the deposit to the processing operation.
- B) Conveyor belts, trucks or other conveyances used to transport aggregate from the deposit to the processing operation.
- C) The feeder and crusher used to break large pieces of aggregate.
- D) Equipment used to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment.
- E) Pumps, hoses, piping and discharge apparatus, used in the movement or removal of water or to divert water from the underground mine area.
- F) Equipment used to install roof bolt supports and side rib bolt supports, and scaling prior to roof bolting, to prevent mine collapse.
- G) Equipment used to coat mine walls with inert material for loose rock safety.
- H) Equipment installed as improvements to real estate for mining, such as elevators and rail, ventilating and illuminating systems.
- I) Additions to exempt underground rail conveyors and ventilating and illumination systems due to the progression of mining.
- J) Equipment used to drill and load holes for blasting material used to fracture aggregate for extraction and to transport the blasting material.
- K) Equipment used for transporting aggregate to above-ground facilities.
- L) Tangible personal property used in or for the purpose of temporarily storing aggregate before processing if the aggregate is ultimately processed for resale and is in fact resold.
- M) Equipment used in an aggregate wash plant to clean the aggregate prior to sale to customers.
- N) Equipment used to blend different grades of aggregate together so that the final product meets customer specifications.
- O) Electrical cable that is part of an electrical distribution

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system supplying electricity to exempt equipment in the field.

- 3) By way of illustration and not limitation, the following maintenance equipment is exempt:

- A) Unlicensed maintenance and welding trucks used for field repair of exempt equipment.
 - B) Lathes, drill presses, air compressors and welders used to attach repair parts.
 - C) Mobile and overhead cranes.
 - D) Equipment used for dust suppression.
 - 4) By way of illustration and not limitation, the following aggregate exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:
- A) Drill rigs used to drill exploration core holes.
 - B) Water trucks used in the drilling process.
 - C) Winch and casing trucks used in the drilling process.
 - D) Field maintenance trucks used to make repairs on field equipment.
 - E) Air compressors.

c) Nonexempt Activities

By way of illustration and not limitation, the following activities will not be considered to constitute aggregate exploration, mining, off highway hauling, processing or maintenance:

- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures;
- 2) the use of equipment in research and development for new uses of aggregate;
- 3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production of extraction scheduling, purchasing, receiving, accounting, fiscal management, communications, security, marketing, product exhibition and promotion, and personnel recruitment, selection or training;
- 4) the use of equipment to prevent or fight fires or other mining hazards and protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, even though such equipment and supplies may be required by law;
- 5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance or reclamation operation;
- 6) facilities for storing aggregate after extraction and processing;
- 7) front-end loaders, cranes and equipment used to load aggregate

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- 8) onto trucks, railcars or barges for delivery to customers;²
- ~~Equipment primarily used to produce aggregate for either internal consumption or other nonexempt use; and equipment primarily leased to produce aggregate for either internal consumption or other nonexempt use; will not be eligible to obtain the exemption.~~

- d) Sales to Lessors of Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
- 1) For the exemption to apply, the purchaser need not, himself, employ the equipment in aggregate exploration, mining, off highway hauling, processing, maintenance or production. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessee will be eligible for the exemption. A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessee provides him with a properly completed certificate and the information contained therein would support a reduction if the sale were made directly to the lessee.

- 2) Should a purchaser-lessee subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the reduction, the purchaser-lessee will become liable for the tax that he previously did not pay. The tax will be assessed upon the fair market value of the equipment at the time of conversion.

- e) Purchaser Certification
- Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment that is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

SUBPART D: GROSS RECEIPTS

Section 130.401 Meaning of Gross Receipts

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"Gross receipts" means all the consideration actually received by the seller, except traded-in tangible personal property.

- a) Filing Returns on Gross Sales Basis
- Deferred payments made by purchasers are not required to be included in gross receipts until actually received by the seller, unless the preferred method of reporting receipts from sales is to report them when payment is actually received (i.e., gross receipts basis). However, if a seller keeps his books on a gross sales basis, rather than on a gross receipts basis, and--~~if a seller~~ desires to file returns on a gross sales basis, he shall notify the Department, in writing, of his intention to change reporting methods. When a seller makes this change, it should use the "washout" procedure to reduce reporting problems when receipts on account are received in a month subsequent to the month of sale when a reporting change basis has been made.

EXAMPLE: Assume a seller wishes to make a change effective with the reporting month of August 1990. Under the "wash-out" procedure, it should calculate the unpaid taxable accounts receivable on its books as of the end of the last business day (July 31, 1990) prior to the first of the month (August 1, 1990) change-over from the accrual to the receipts basis. The taxpayer should then consider all taxable receipts on account to be receipts on which the tax has already been paid (on a sales basis prior to the change-over) until such time as those receipts equal the total of the taxable accounts receivable that it had previously calculated on July 31, 1990 (the day prior to the change-over). Once that point is reached, all subsequent receipts, even those from sales prior to the change-over, should be reported as taxable receipts.

- b) Returned Merchandise and Cancellations

Any seller may deduct from his gross receipts any refunds made by him during the preceding return period to purchasers, on account of tangible personal property returned to the seller, in case the seller had theretofore included the receipts from the sale of such tangible personal property in a return made by him, and had paid the tax imposed by the Retailers' Occupation Tax Act with respect to such receipts. However, if the seller collected the Use Tax on such a sale, he should refund such tax to his customer to whom he makes a refund of the selling price. When the seller makes a charge for restocking or reshelving returned merchandise, the receipts retained by the seller to cover the restocking or reshelving fee are not considered taxable gross receipts. When customers return merchandise, sellers should refund all of the sales tax to the customer, even though they will not be refunding all of the purchase price because of the restocking or reshelving policy. Cancellation fees should be handled in the same manner.

- c) Reward Credits
- Reward credits, sometimes referred to as hostess dollars, awarded to a host or hostess for sponsoring a party for friends at which sellers

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In this case, charges designated as "shipping and handling" as well as delivery or transportation charges in general, are not taxable if it can be shown that they are both separately contracted for and that such charges are actually reflective of the costs of shipping. To the extent that shipping and handling charges exceed the costs of shipping, the charges are subject to tax. (See Section 130.415 of this Part.)

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.415 Transportation and Delivery Charges

a) Transportation and delivery charges are considered to be freight, express, mail, truck or other carrier, conveyance or delivery expenses. These charges are also many times designated as shipping and handling charges.

b) The answer to the question of whether or not a seller, in computing his Retailers' Occupation Tax liability, may deduct, from his gross receipts from sales of tangible personal property at retail, amounts charged by him to his customers on account of his payment of transportation or delivery charges in order to secure delivery of the property to such customers, or on account of his incurrence of expense in making such delivery himself, depends not upon the separate billing of such transportation or delivery charges or expense, but upon whether the transportation or delivery charges are included in the selling price of the property which is sold or whether the seller and the buyer contract separately for such transportation or delivery charges by not including such charges in such selling price. In addition, charges for transportation and delivery must not exceed the cost of transportation or deliver. If those charges do exceed the cost of delivery or transportation, the excess amount is subject to tax.

c) If such transportation or delivery charges are included in the selling price of the tangible personal property which is sold, the transportation or delivery expense is an element of cost to the seller within the meaning of Section 1 of the Retailers' Occupation Tax Act, and may not be deducted by the seller in computing his Retailers' Occupation Tax liability.

d) If ~~on-the-other-hand-where~~ the seller and the buyer agree upon the transportation or delivery charges separately from the selling price of the tangible personal property which is sold, then the cost of the transportation or delivery service is not a part of the "selling price" of the tangible personal property which is sold, but instead is a service charge, separately contracted for, and need not be included in the figure upon which the seller computes his Retailers' Occupation Tax liability. ~~Wait-order-delivery~~ Delivery charges are deemed to be agreed upon separately from the selling price of the

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may show and solicit orders for their merchandise, and which are awarded based upon the amount of sales generated at the party, are included in gross receipts subject to tax when applied toward purchases of the seller's merchandise. The value of the reward credit equals the dollar amount credited when the reward credit is applied.

d) Membership fees are not gross receipts from the sale of tangible personal property. Membership fees are gross receipts received in exchange for an intangible. For example, when membership fees "buy" purchasers the right to purchase products at wholesaler, but are not applied to the purchase price of tangible personal property, they are not subject to sales tax. However, when membership fees represent the sale of tangible personal property, they are subject to tax. For example, if a country club charges a member \$100 each month as a "minimum charge" for food services at the club, but the member only consumes \$75 worth of food in a particular month, tax is due on \$75.

e) Accounts Receivable Assigned to a Wholly Owned Subsidiary With regard to receipts or other consideration received by a seller from the sale, transfer or assignment of accounts receivable to a wholly owned subsidiary, such receipts are not considered to be gross receipts subject to tax until the purchaser makes payment on such accounts.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.410 Cost of Doing Business Not Deductible

In computing Retailers' Occupation Tax liability, no deductions shall be made by a taxpayer from gross receipts or selling prices on account of the cost of property sold, the cost of materials used, labor or service costs, idle time charges, incoming freight or transportation costs, overhead costs, processing charges, clerk hire or salesmen's commissions, interest paid by the seller, or any other expenses whatsoever. Costs of doing business are an element of the retailer's gross receipts subject to tax even if separately stated on the bill to the customer.

a) For example, a retailer may choose to accept payment from a customer through the use of a credit or debit card, and the retailer may not receive the full amount of payment due to the service charges or fees charged by the credit or debit card company. These charges or fees are part of the retailer's cost of doing business and are not deductible from the gross receipts subject to tax.

b) To determine whether outgoing shipping and handling charges are deductible from gross receipts that are subject to tax, see Section 130.415 of this Part.

c) Handling charges represent a retailer's cost of doing business, and are not deductible from the gross charges subject to tax. However, such charges are often stated in combination with shipping charges.

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tangible personal property being sold so long as the seller **maff-order** form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the charges are subject to tax. The best evidence that transportation or delivery charges were agreed to separately and apart from the selling price, is a separate and distinct contract for transportation or delivery. However, documentation which demonstrates that the purchaser had the option of taking delivery of the property, at the seller's location, for the agree purchase price, or having delivery made by the seller, for the agree purchase price, plus an ascertained or ascertainable delivery charge, will suffice.

- e) Incoming transportation costs
- Transportation or delivery charges paid by a seller in acquiring property for sale are merely costs of doing business to the seller and may not be deducted by such seller in computing his Retailers' Occupation Tax liability, even though he passes such costs on to his customers by quoting and billing such costs separately from the selling price of tangible personal property which he sells. The same is true of transportation or delivery charges paid by the seller in moving property to some point from which the property (when subsequently sold) will be delivered or shipped to the purchaser.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.425 Traded-In Property

- a) "Gross receipts" means the "selling price" or "amount of sale". "Selling price" or the "amount of sale" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property other than as hereinafter provided, and services, but not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever. "Selling price" does not include charges that are added to prices by sellers on account of the seller's tax liability under the Retailers' Occupation Tax Act, or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by the Use Tax Act, or on account of the seller's tax liability under the Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1] [411--Rev--Stat--1989--ch--24--par--8-11-1] the Non-Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1.1] [411--Rev--Stat--1989--ch--120--par--8-11-1-1], the Home

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Rule County Retailers' Occupation Tax Act [55 ILCS 5/5-1006]. [411--Rev--Stat--1989--ch--34--par--5-1086] Section 4 of the Water Commission Act of 1985 [70 ILCS 3720/4] [411--Rev--Stat--1989--ch--11-2/3--par--254] Section 5.01 of the Local Mass Transit District Act [70 ILCS 3610/5.01] [411--Rev--Stat--1989--ch--11-2/3--par--955-01] and Section 4.03 of the Regional Transportation Authority Act [70 ILCS 3615/4.03] [411--Rev--Stat--1989--ch--11-2/3--par--904-03]. The phrase "like kind and character" includes, but is not limited to, the trading of any kind of motor vehicle on the purchase of any kind of motor vehicle, or the trading of any kind of farm implement on the purchase of any kind of farm implement, while not including a kind of item which, if sold at retail by that retailer, would be exempt from Retailers' Occupation Tax and Use Tax as an isolated or occasional sale.

- c) A motor vehicle traded to a farm implement dealer for a farm implement would not qualify for the exemption unless such farm implement dealer is also a motor vehicle dealer because the farm implement dealer's sale of the motor vehicle would be exempt as an isolated or occasional sale. A farm implement traded to a motor vehicle dealer for a motor vehicle would not qualify for the exemption unless such dealer is also a farm implement dealer because the motor vehicle dealer's sale of the farm implement would be an exempt isolated or occasional sale. A farm implement traded for a motor vehicle, or a motor vehicle traded for a farm implement, would qualify for the exemption if the seller is engaged in business both as a motor vehicle dealer and a farm implement dealer. Agricultural produce or animals traded for a motor vehicle or for a farm implement would not qualify for the exemption.

- d) The real test is whether the retail sale of the traded-in tangible personal property by the person who accepts it in trade would be subject to Retailers' Occupation Tax, or whether such sale would be exempt as an isolated or occasional sale (see Section 130.110). In the former event, the tangible personal property qualifies for the trade-in exemption. In the latter event, it does not.

- e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale, where the item that is traded-in is of like kind and character as that which is being sold, shall not be considered to be "gross receipts" subject to the Retailers' Occupation Tax and need not be included in the seller's return, or may be deducted in the return from gross receipts if included in gross receipts as reported in the return. The value of traded-in real estate or intangible personal property is not deductible from gross receipts in computing Retailers' Occupation Tax liability.

- f) The Retailers' Occupation Tax applies to the business of selling tangible personal property at retail in this State whether such property is new or used and regardless of how the seller may have acquired such property (i.e., by way of purchase, as a trade-in or in

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some other manner).

- g) No trade-in credit may be taken for amounts representing the proceeds due or paid under an insurance contract if title to missing, damaged or destroyed property is transferred to an insurer by operation of law or contract, i.e., the insurance claim value of property may not be used as a trade-in credit when an insured purchases tangible personal property to replace property which has been lost or destroyed.

- h) No trade-in credit may be taken for that portion of the purchase price of a new automobile representing a settlement which the purchaser has obtained from an automobile manufacturer pursuant to the New Vehicle Buyer Protection Act (815 ILCS 380) (4115--Rev.--Stat--1989--Ch--121-1/2--Par--1991-ct--segr7).

- i) When tangible personal property is sold that is covered by a "core charge," the full retail selling price of such property, including the core charge, is subject to Retailers' Occupation Tax. The fact that a component of the gross receipts from the sale of the tangible personal property is labeled a "core charge" does not change the taxable nature of the transaction. A core charge is regarded as predetermined trade-in value. Tax should be charged on the core charge, but a deduction may be taken for the traded-in tangible personal property actually received after the date of sale if books and records clearly relate the trade-in to the sales transaction. Such a situation would occur when the replacement property is purchased prior to the time the used property is returned. If, on the other hand, the used property is traded in at the time of purchase, tax is due on the purchase price, less the allowance for the trade-in.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.435 State and Local Taxes Other Than Retailers' Occupation Tax

- a) Illinois Motor Fuel Tax and Cigarette Tax

- 1) In calculating taxable receipts, sellers of motor fuel for use or consumption may deduct the Illinois Motor Fuel Tax collected by such sellers with respect to such sales, because the Illinois Motor Fuel Tax is on the consumer, and is not considered to be a part of the "selling price" of the motor fuel.

- 2) The amount of the retail selling price of cigarettes represented by the Cigarette Tax or Cigarette Use Tax may similarly be deducted from the seller's gross receipts from the sale in computing Retailers' Occupation Tax liability.

- b) Illinois and Cook County Liquor Gallonage Taxes

No amounts shall be deducted from gross receipts on account of the taxes imposed by The Liquor Control Act of 1934 in computing Retailers' Occupation Tax liability on retail sales of alcoholic beverages. That is true because the legal incidence of these taxes is on the manufacturer or importing distributor and not on the consumer.

The retailer does not act, in any legal sense, as a collector of these taxes even though he shifts the economic burden of them to the consumer. Since the legal incidence of the Cook County Liquor Gallonage Tax is on the consumer, with the seller acting merely as a collector of the tax for the county, amounts collected because of the Cook County Liquor Tax are not considered to be a part of the liquor retailer's receipts that are subject to Retailers' Occupation Tax.

- c) Underground Storage Tank Tax, Environmental Impact Fee, and County Motor Fuel Taxes

The Underground Storage Tank Tax imposed under Section 2a of the Motor Fuel Tax Law and the Environmental Impact Fee imposed under the Environmental Impact Fee Law are includable in gross receipts subject to Retailers' Occupation Tax because such taxes are imposed upon receivers of fuel and not upon consumers. In addition, County Motor Fuel Taxes imposed under the county Motor Fuel Tax Law are includable in gross receipts subject to Retailers' Occupation Tax because such taxes are imposed upon retailers of motor fuel and not upon consumers.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.445 Federal Taxes

- a) When Deductible

- 1) In computing Retailers' Occupation Tax liability, a person making such computation may deduct an amount equivalent to taxes which he pays to the Federal Government if he is required by the Federal law to collect such taxes from his customers and to remit such taxes directly to the Federal Government.

- 2) Also, in computing Retailers' Occupation Tax liability, a person making such computation may deduct an amount equivalent to the Federal excise tax which he pays directly to the Federal Government if such Federal tax is an excise tax imposed upon tangible personal property when sold at retail as distinguished from tangible personal property sold by a wholesaler, an importer, a manufacturer or other producer. Such taxes include the Federal taxes upon luxury passenger vehicles, special fuels, and heavy trucks and trailers.

- b) When Not Deductible

- 1) Federal excise taxes imposed upon the manufacture or production of tangible personal property, and Federal processing taxes, compensating taxes, importation taxes and taxes on floor stocks, are not deductible, in computing Retailers' Occupation Tax liability, from the gross receipts of persons who sell such tangible personal property at retail. Such taxes include the Federal taxes upon manufacturers of tobacco products and alcoholic liquors.

- 2) Also, Federal taxes which are imposed on tangible personal

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property when sold by a wholesaler, an importer, a manufacturer or other producer (such as the Federal taxes on gasoline, tires or other tangible personal property when sold by a wholesaler, an importer, a manufacturer or other producer), are not deductible from gross receipts by anyone in computing Retailers' Occupation Tax liability.

- 3) The taxes referred to under this subheading ("When Not Deductible") are merely costs of doing business to the person who pays such taxes or to persons to whom the economic burden of such taxes may be shifted by those who pay such taxes to the Federal Government.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART E: RETURNS

Section 130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances

- a) Except as noted hereinafter, at the same time that a tax return required by the provisions of the Act is filed with the Department, the taxpayer shall pay the tax that is due with such return to the Department.
- b) If the taxpayer's average monthly tax liability to the Department under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of the Act, was \$10,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred.
- If the month during which such tax liability is incurred begins on or after January 1, 1987, and prior to January 1, 1989, or begins on or after January 1, 1989, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's actual liability for the same calendar month of the preceding year.
- If the month during which such tax liability is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's actual liability for the same calendar month of the preceding year or 100% of the actual liability for the quarter monthly reporting period.
- If the month during which such tax liability is incurred begins on or after January 1, 1996, each payment shall be in an amount equal to

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22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year.

The amount of such payments shall be credited against the final tax liability of the taxpayer's return for that month. Prior to January 1, 1999, if ~~if~~ any such payment is not paid at the time or in the amount required in this subsection ~~herein~~, then the taxpayer's 2%, 2.1% or 1.7% vendors' discount shall be reduced by 2%, 2.1% or 1.7% of the difference between the minimum amount due as a payment and the amount of such quarter monthly payment actually and timely paid, and the taxpayer shall be liable for penalties and interest on such difference except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section. Beginning on and after January 1, 1999, if any such payment is not paid at the time or in the amount required in this subsection, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due as a payment and the amount of such quarter monthly payment actually and timely paid, except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section.

- c) Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes which average in excess of \$25,000 per month during the preceding 2 complete calendar quarters, shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred begins on or after January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until such taxpayer's average monthly prepaid tax collections during the preceding 2 complete calendar quarters is \$25,000 or less. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due. (Section 3 of the Act)
- d) If any such payment or deposit provided for herein exceeds the taxpayer's present and probable future liabilities under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation

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Tax Act and the Service Use Tax Act, the Department shall, if requested by the taxpayer, issue to the taxpayer a credit memorandum, which may be submitted by the taxpayer to the Department in payment of tax liability subsequently to be remitted by the taxpayer to the Department or be assigned by the taxpayer to a similar taxpayer under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted to the Department under the Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act. If the Department subsequently determines that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's 2.1% and 1.7% vendor's discount shall be reduced by 2.1% or 1.7% of the difference between the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on such difference.

e) ~~Any deposit previously made by a taxpayer who is required to make quarter-monthly payments shall be applied against the taxpayer's liability to the Department under the Retailers' Occupation Tax Act or the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, for the month preceding the first month in which the taxpayer is required to make such quarter-monthly payments, if the deposit exceeds that liability; the Department shall issue the taxpayer a credit memorandum for the excess.~~

ef) For the purposes of this Section, the phrase "preceding 4 complete calendar quarters" means the preceding 4 complete calendar quarters for which returns would have been filed or should have been filed for the last month of the 4 quarter period since, until then, the making of the required computations for the 4 quarter period would be impossible. For example, the preceding 4 complete calendar quarters with reference to a November 1, 1976, date would actually have ended June 30, 1976, since most returns for the last month of that 4 quarter period would not have to have been filed until July 31, 1976, and the preceding 4 complete calendar quarters with reference to a July 1, 1977, date would actually end March 31, 1977, since most returns for the last month of that 4 quarter period would not have to be filed until April 30, 1977. The calendar quarters are January through March, April through June, July through September and October through December.

fg) Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department (see 86 Ill. Adm. Code 750 "Payment of Taxes by Electronic Funds Transfer") by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the

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Department by electronic funds transfer.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.540 Returns on a Transaction by Transaction Basis

a) Who Must File Transaction Reporting Returns.

In addition, with respect to motor vehicles, and aircraft, watercraft, and trailers that are required to be registered with an agency of this State (and implements of husbandry or special mobile equipment for which the purchaser intends to apply for an optional title), every retailer selling this kind of tangible personal property in Illinois shall file, with the Department, upon a form prescribed and supplied by the Department, a separate return for each such item of tangible personal property which the retailer sells.

b) Function and Contents of the Transaction Reporting Returns.

1) The transaction reporting return prescribed and supplied to retailers by the Department not only shall serve as such return (for both the buyer and the seller), but also may serve as the dealer's invoice to the purchaser. Such forms will be numbered. The Department will keep a record of all of these forms which it supplies to a given retailer, and he is responsible for accounting to the Department for all such forms. If a transaction reporting return form should be spoiled, the retailer should mark it "voided" and retain send it in his books and records for 42 months back to the Department. Transaction reporting returns are not transferable by one retailer to another, but must be filed with or otherwise accounted for to the Department by the retailer to whom the particular forms are issued by the Department.

2) Such transaction reporting return must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of use tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold, and such other information as the Department may reasonably require.

c) Transaction Reporting Returns, When Due, Transaction Reporting Returns in Lieu of Monthly Returns

1) Such transaction reporting return shall be filed not later than

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20 days after the date of delivery of the item that is being sold, but may be filed by the retailer at any time sooner than that if he chooses to do so.

- 2) If a retailer's sales of tangible personal property are limited to sales of motor vehicles, or aircraft, watercraft, or trailers that are required to be registered with an agency of this State, or ~~both~~ a combination of these items so that all of his retailers' Occupation Tax liability is required to be reported, and is reported, on such transaction reporting returns, and such retailer is not otherwise required to file monthly returns, such retailer need not file monthly returns.
- 3) If a retailer of motor vehicles, or aircraft, watercraft, or trailers that are required to be registered with an agency of this State, or ~~both~~ a combination of these items, need not file a monthly return, such retailer shall be required to file returns on an annual basis.

- d) Transmittal of ~~the~~ Transaction Reporting Return by ~~By~~ Way of ~~the~~ Titling or ~~the~~ Registering Agency
The transaction reporting return and tax remittance or proof of exemption may be transmitted to the Department by way of the State agency with which, or State officer with whom, the tangible personal property may be titled or registered if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

- e) Submission of ~~the~~ Tax or ~~the~~ Proof of ~~the~~ Exemption with ~~the~~ Transaction Reporting Returns. Issuance of Use Tax Receipt or ~~the~~ Exemption Determination by Department of Revenue

With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the Department shall issue, in the purchaser's name, a Use Tax receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such purchaser may submit to the agency with which, or State officer with whom, he must title or register the tangible personal property that is involved in support of such purchaser's application for an Illinois certificate or other evidence of title or registration to such tangible personal property.

- f) Issuance of Title or Registration Where Retailer Fails or ~~the~~ Refuses to ~~the~~ Remit Tax Collected by By Retailer from ~~From~~ User
No retailer's failure or refusal to remit tax hereunder shall preclude a user, who has paid the proper tax to the retailer, from obtaining his certificate of title or other evidence of title or registration upon satisfying the Department that such user has paid the proper tax (if tax is due) to the retailer.

- g) Direct Payment of ~~the~~ Tax by ~~the~~ User to ~~the~~ Department on ~~the~~ Intrastate Purchase under ~~the~~ Certain Circumstances
If the user who would otherwise pay tax to the retailer wants the

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transaction reporting return filed and the payment of tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user has not paid the tax to the retailer, such user may certify to the fact of such delay by the retailer and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction reporting return and the remittance for tax or proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 1-7½ discount being allowed. When the user pays the tax directly to the Department as aforesaid, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART G: CERTIFICATE OF REGISTRATION

Section 130.701 General Information on Obtaining a Certificate of Registration

- a) It shall be unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration ~~certificate-of--Registration~~ from the Department.
- b) Every person who engages in the business of selling tangible personal property at retail in this State must procure a certificate of registration ~~certificate-of--Registration~~ (and sub-certificate of registration Sub-Certificate--of-Registration when required) from the Department.
- c) For information with respect to penalties for violating this requirement, see Subpart I of this Part.
- d) The application to register must be made on a form prescribed and furnished by the Department for that purpose. Upon request therefor, made to the Department of Revenue, an application form will be furnished. Each such application shall be signed and verified. The application shall contain an acceptance of responsibility by the person or persons who will be responsible for filing returns and payment of the taxes due under the this Act.
- e) Special Requirements Pertaining to Vending Machines
If the applicant will sell tangible personal property at retail through vending machines, his application to register shall indicate the number of vending machines to be so operated; and thereafter, he shall notify the Department by January 31 of the number of vending machines which such person was using in his business of selling tangible personal property at retail on the preceding December 31.

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f) Posting Bond of ~~or~~ Other Security

1) Every applicant for a certificate of registration shall, within 30 days after he commences to engage in the business of selling tangible personal property at retail, furnish a bond from a surety company authorized to do business in the State of Illinois, or a bond signed by 2 personal sureties who have filed, with the Department, sworn statements disclosing net assets equal to at least 3 times the amount of the bond to be required of such applicant, or a bond secured by an assignment of a bank account or certificate of deposit, stocks or bonds, conditioned upon the applicant paying to the State of Illinois all moneys becoming due under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution.

2) Maximum Amount of Bond or Other Security

A) The Department shall fix the amount of such security in each case, taking into consideration the amount of money expected to become due from the applicant under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution. The amount of security required by the Department shall be such as, in its opinion, will protect the State of Illinois against failure to pay the amount which may become due from the applicant under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution, but the amount of the security required by the Department shall not exceed three times the amount of the applicant's average monthly tax liability, or \$50,000-89, whichever amount is lower.

B) No certificate of registration under the Retailers' Occupation Tax Act shall be issued by the Department until the applicant provides the Department with satisfactory security as herein provided for.

3) Exception from Prior Security Requirements for Prior Continuous Compliance Taxpayers
Any taxpayer who has, as verified by the Department, faithfully

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and continuously complied with the condition of his bond or other security under the provisions of the Act for a period of 3 consecutive years shall be considered to be a Prior Continuous Compliance taxpayer. Every Prior Continuous Compliance taxpayer shall be exempt from all requirements under the Act concerning the furnishing of security as a condition precedent to his being authorized to engage in the business of selling tangible personal property at retail in this State. This exemption shall continue for each such taxpayer until such time as he may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the Department's issuance of a final assessment which has become final under the Act, or by the taxpayer's filing of a return which admits tax that is not paid to be due) to be delinquent or deficient in the paying of any tax under the Retailers' Occupation Tax Act or under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the registrant under the Retailers' Occupation Tax Act will permit the registrant to engage in business without registering separately under such other law, ordinance or resolution, at which time that taxpayer shall become subject to all the financial responsibility requirements of the Act and, as a condition of being allowed to continue to engage in the business of selling tangible personal property at retail, shall be required to post bond or other acceptable security with the Department covering liability which such taxpayer may thereafter incur. Any taxpayer who fails to pay an admitted or established liability under the Act may also be required to post bond or other acceptable security with this Department guaranteeing the payment of such admitted or established liability.

g) Issuance of Certificate of Registration
Upon receipt of the application for certificate of registration in proper form, and upon approval by the Department of the security furnished by the applicant, the Department shall issue to such applicant a certificate of registration which shall permit the person to whom it is issued to engage in the business of selling tangible personal property at retail in this State.

h) No certificate of registration issued to a taxpayer who files returns required by this Act on a monthly basis shall be valid after the expiration of 5 years from the date of its issuance or last renewal. The expiration date of a sub-certificate of registration shall be that of the certificate of registration to which the sub-certificate relates. A certificate of registration shall be automatically renewed, subject to revocation as provided by this Act, for an additional 5 years from the date of its expiration unless otherwise notified by the Department. A certificate of registration issued under this Act more than 5 years before the effective date of this

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amendatory Act of 1989 shall expire and be subject to the renewal provisions of this Section on the next anniversary of the date of issuance of such certificate which occurs more than 6 months after the effective date of this Amendatory Act of 1989. A certificate of registration issued less than 5 years before this Amendatory Act of 1989 shall expire and be subject to the renewal provisions of this Section on the 5th anniversary of the issuance of the certificate. (Section 2a of the Act)

- 1) Where a taxpayer to whom a certificate of registration is issued under this Act is in default to the State of Illinois for delinquent returns or for moneys due under this Act or any other State state tax law or municipal or county ordinance administered or enforced by the Department, the Department shall, not less than 120 days before the expiration of such certificate of registration, give notice to the taxpayer to whom the certificate was issued, of the account period of the delinquent returns, the amount of tax, penalty and interest due and owing from the taxpayer, and that the certificate of registration shall not be automatically renewed upon its expiration date unless the taxpayer, on or before the date of expiration, has filed and paid the delinquent returns or paid the defaulted amount in full. (Section 2a of the Act)

- 2) The Department may, in its discretion, approve renewal by an applicant who is in default if, at the time of application for renewal, the applicant files all of the delinquent returns or pays to the Department such percentage of the defaulted amount as may be determined by the Department and agrees in writing to waive all limitations upon the Department for collection of the remaining defaulted amount to the Department over a period not to exceed 5 years from the date of renewal of the certificate; however, no renewal application submitted by an applicant who is in default shall be approved if the immediately preceding renewal by the applicant was conditioned upon the installment payment agreement described in this Section. The payment agreement herein provided for shall be in addition to, and not in lieu of, the security provided for by this Section of a taxpayer who is no longer considered a continuous compliance taxpayer. The execution of the payment agreement as provided in this Act shall not toll the accrual of interest at the statutory rate. (Section 2a of the Act)

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements

- a) Any person aggrieved by any decision of the Department under this Regulation may, within 60 days after notice of such decision, protest and request a hearing, whereupon the Department shall give

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notice to such person of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of the Retailers' Occupation Tax Act and then issue its final administrative decision in the matter to such person.

- b) In the absence of such a protest within 60 days, the Department's decision shall become final without any further determination being made or notice given.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances

When However-where the same person engages in 2 or more businesses of selling tangible personal property at retail in this State, which businesses are substantially different in character or engaged in under different trade names or engaged in under other substantially dissimilar circumstances (so that it is more practicable, from an accounting, auditing or bookkeeping standpoint, for such businesses to be separately registered), the Department may require or permit such person (subject to the same requirements concerning the furnishing of security as those that are provided for hereinbefore in this Regulation as to each application for a certificate of registration) to apply for and obtain a separate certificate of registration for each such business or for any of such businesses instead of registering such person, as to all such businesses, under a single certificate of registration supplemented by related sub-certificates of registration.

At the request of a corporation, the Department may permit separate registration of divisions of that corporation under this Section. In those cases, each separately registered division is required to file returns under its separate Illinois Business Tax (IBT) number.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.735 Certificate Not Transferable

- a) A certificate or sub-certificate of registration is not transferable, and should be destroyed in case the taxpayer's place of business to which such certificate or sub-certificate applies is discontinued by him. Where any place of business of the taxpayer is moved to another location, the Department should be advised immediately of such removal, and of the destruction of the certificate or sub-certificate of registration at the former location. Upon application, a duplicate certificate or sub-certificate of registration, bearing the same number as that appearing upon the original, will be issued.
- b) if a corporation or other business is no longer in existence due to a reorganization, merger, consolidation, dissolution, or other

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organizational change, the corporation, other business, or surviving or new corporation must notify the Department of such change in the business' organizational status and terminate the registration of any corporation or other business that is no longer in existence. (See 86 Ill. Adm. Code 130.520.) Any new entities arising from a reorganization, merger, consolidation, dissolution or other organizational change must complete a registration application and register the new entity with the Department prior to conducting business. New or surviving entities should not conduct business nor file returns under the registration number for the corporation or other business that is no longer in existence. The returns for the new or surviving business should be filed under the registration number assigned to the new or revived corporation. If a new or surviving entity does file returns under an incorrect registration number (i.e., the registration number for the corporation or other business that is no longer in existence), penalties and interest may be incurred.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.745 Revocation of Certificate

The Department, after notice and hearing as provided under Section 39b47 of the Civil Administrative Code [20 ILCS 2505/39b47] and Section 2b of the Act, may revoke the certificate of registration (including all sub-certificates of registration, if any, issued thereunder) of any person who violates any of the provisions of the Act. Before revocation of a certificate of registration the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the person so accused notice in writing of the charge against him or her, and on the date designated shall conduct a hearing upon this matter. The lapse of such 90 day period shall not preclude the Department from conducting revocation proceedings at a later date if necessary.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

SUBPART H: BOOKS AND RECORDS

Section 130.801 General Requirements

- a) Every person engaged in the business of selling tangible personal property at retail in this State shall keep records and books of all sales and purchases of tangible personal property, including all sales and purchase invoices, purchase orders, merchandise records and requisitions, inventory records prepared as of December 31 of each year or otherwise annually, as has been the custom in the specific trade, credit memos, debit memos, bills of lading, shipping records,

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and all other records pertaining to any and all purchases and sales of goods whether or not the retailer believes them to be taxable under the Act; and the retailer shall also keep summaries, recapitulations, totals, journal entries, ledger accounts, accounts receivable records, accounts payable records, statements, tax returns with all schedules or pertinent working papers used in connection with the preparation of such returns, and other documents listing, summarizing or pertaining to such sales, purchases, inventory changes, shipments or other transactions. For a description of what records constitute the minimum required, including the use of machine sensible records and electronic data interchange, see Section 130.805 of this Part.

b) Retailers must maintain complete books and records covering receipts from all sales and distinguishing taxable from nontaxable receipts. The such books and records must clearly indicate and explain all the information (deductions as well as gross receipts) required for tax returns and shall, at all times during business hours of the day, be subject to inspection and audit by the Department or its duly authorized agents and employees.

d) If a taxpayer retains records required to be retained under this Section in both machine-sensible and hard-copy formats, the taxpayer shall, upon request, make the records available to the Department in machine-sensible format in accordance with Section 130.805(b)(5).

e) Such books and records must be kept in the English language.

f) Such books and records must be kept within Illinois except in instances where a business has several branches, with the head office being located outside Illinois, and where all books and records have been regularly kept outside the State at such head office. Under such circumstances, upon written permission from the Department, books and records may be kept outside Illinois, but the taxpayer must, within a reasonable time after notification by the Department, make all pertinent books, records, papers and documents available at some point within Illinois for the purpose of such inspection and audit as the Department may deem necessary.

g) It shall be presumed that all sales of tangible personal property are subject to tax under the Act until the contrary is established, and the burden of proving that a transaction is not taxable shall be upon the person who would be required to remit the tax to the Department if such transaction is taxable. In the course of any audit or investigation or hearing by the Department with reference to a given taxpayer, if the Department finds that the taxpayer lacks documentary evidence needed to support the taxpayer's claim to exemption from tax, the Department is authorized to notify the taxpayer in writing to produce such evidence, and the taxpayer shall have 60 days subject to the right in the Department to extend this period either on request for good cause shown or on its own motion from the date when such notice is sent to the taxpayer by certified or registered mail (or delivered to the taxpayer if the notice is served personally) in which to obtain and produce such evidence for the Department's inspection

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and audit, failing which the matter shall be closed, and the transaction shall be conclusively presumed to be taxable.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.805 What Records Constitute Minimum Requirement

a) In General. A taxpayer shall maintain all records that are necessary to a determination of the correct tax liability under the Act. All required records must be made available on request by the Department. Where a taxpayer's business consists exclusively of the sale of tangible personal property at retail, the following records will be deemed by the Department to constitute a minimum for the purposes of the Act:

- 1) Cash, register tapes and other data which will provide a daily record of the gross amount of sales.
- 2) A record of the amount of merchandise purchased. To fulfill this requirement, copies of all vendors' invoices and taxpayers' copies of purchase orders must be retained serially and in sequence as to date.
- 3) A true and complete inventory of the value of stock on hand taken at least once each year.

b) Records prepared by Automated Data Processing Systems (ADP). When an ADP tax accounting system is used to maintain all or part of a taxpayer's accounting or financial records, such ADP system must include a method of producing legible and readable records which will provide the necessary information for verifying tax liability. If a taxpayer retains records required to be retained under Section 130.801 of this Part, in both machine-sensible and hard-copy formats, the taxpayer shall make the records available to the Department in machine-sensible format upon request of the Department in accordance with subsection (b)(5) of this Section 130.805(b)(5)(B). ADP accounting systems encompass all types of data processing systems including, but not limited to, mainframe computer systems, stand-alone or networked microcomputer systems, Database Management Systems (DBMS) and systems using Electronic Data Interchange (EDI) technology.

- 1) Definitions
 - A) "Database Management System" or "DBMS" means a software system that creates, controls, relates, retrieves and provides accessibility to data stored in a database.
 - B) "Electronic Data Interchange" or "EDI technology" means the computer-to-computer exchange of business transactions in a standardized structured electronic format.
 - C) "Machine-sensible record" means a collection of related information in an electronic format. Machine-sensible records do not include hard-copy records that are created or recorded on paper or stored in or by an imaging system such

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as microfilm, microfiche or storage-only imaging systems.
 D) "Storage-only imaging systems" means a system of computer hardware and software that provides for the storage, retention and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information or data contained on the document in any manner other than to reproduce the document in hard-copy or as an optical image.
 E) "Hard-copy" means any documents, records, reports or other data printed on paper.

2) Recordkeeping Requirements - Machine-Sensible Records

A) General Requirements
 i) Machine-sensible records used to establish tax compliance shall be retained by the taxpayer. The retained records shall provide sufficient information to establish matters required to be shown by a taxpayer in any tax or information returns. The machine-sensible records shall contain sufficient transaction-level detail information so that the details and the source documents underlying the machine-sensible records can be identified and made available to the Department upon request.

ii) The retained records should reconcile to the books and to the tax return by establishing the relationship (e.g., the audit trail) between the total of the amounts in the retained records to the totals in the books and to the tax return.

iii) The retained records must be capable of being processed. For purposes of this Section, "capable of being processed" means to be able to retrieve, manipulate, print hard-copy, or produce other output. This term does not encompass any requirement that the program or system that created the computer data be available to process the data unless the process is essential to a tax-related computation.

iv) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes.

v) All records required to be retained under this Section shall be preserved unless the Department has provided in writing that the records are no longer required as explained in Section 130.825 of this Part.

B) Electronic Data Interchange

i) Where a taxpayer uses electronic data interchange

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processes and technology, the level of record detail, in combination with other records related to the transaction, must be equivalent to the level of detail contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, shipping detail, etc. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method which allows the Department to interpret the coded information.

- ii) The taxpayer may capture the information necessary to satisfy subsection (b)(2)(B)(i) at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity and integrity of the retained records can be established.

For example, a taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system captures information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer also retains other records, such as its vendor master file and product code description lists and makes them available to the Department. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

- C) Electronic Data Processing Systems Requirements. The requirements for an electronic data processing accounting system are similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this Section.

- 3) Recordkeeping Requirements - ADP Systems Documentation
 - A) Upon the request of the Department, the taxpayer shall provide a description of the business process that created the retained records. Such description shall include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the authenticity and integrity of the records.

- B) The taxpayer shall be capable of demonstrating:
 - i) the functions being performed as they relate to the

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- flow of data through the system;
- ii) the internal controls used to ensure accurate and reliable processing; and
- iii) the internal controls used to prevent the unauthorized addition, alteration or deletion of retained records.

- C) The following specific documentation is required for machine-sensible records pursuant to this Section:

- i) record formats and layouts;
 - ii) field definitions (including the meaning of all "codes" used to represent information); and
 - iii) file descriptions (e.g., data set name); and
 - iv) detailed charts of accounts and account descriptions.
- Any changes to the items specified in subsections (b)(3)(B) and (C) above, together with their effective dates, shall be documented and made available to the Department upon request.

- 4) Machine-Sensible Records Maintenance Requirements

- A) The establishment of records management practices is solely at the discretion of the taxpayer, who ultimately bears the burden of producing records capable of being processed at the time of an examination by the Department. The Department recommends but does not require that taxpayers refer to the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records.

- B) In establishing records management practices, taxpayers should consider, for example, the labeling of records, the security of the storage environment, the creation of back-up copies and their storage location and the use of periodic testing to confirm the continued integrity of the records. The NARA standards may be found at 36 CFR 1234, July 1, 1995 edition.

- C) The taxpayer's computer hardware or software shall accommodate the processing of or the extraction and conversion of retained machine-sensible records.

- 5) Access to Machine-Sensible Records. The manner in which the Department is provided access to machine-sensible records as required in subsection (b) of this Section ~~Section 130-895(b)~~ and Section 130.801(d) of this Part may be satisfied through a variety of means that shall take into account a taxpayer's facts and circumstances through consultation with the taxpayer. Such access will be provided in one or more of the following manners:

- A) A taxpayer may provide the Department copies of the machine-sensible records for use on the Department's equipment;

- B) The taxpayer may arrange to provide the Department with the hardware, software and personnel resources necessary to access and process the machine-sensible records;

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- C) The taxpayer may arrange for a third party to provide the hardware, software and personnel resources necessary to access and process the machine-sensible records;
- D) The taxpayer may convert machine-sensible records to a standard record format specified by the Department on a magnetic medium that is agreed to by the Department. This may include conversion to a different medium (e.g., from mainframe files to microcomputer diskette). These records may be processed on the Department's equipment or at the taxpayer's location;
- E) The taxpayer and the Department may agree on other means of providing access to the machine-sensible records.
- 6) Taxpayer Responsibility and Discretionary Authority
 - A) In discharging their responsibilities under the Act, taxpayers are empowered to determine which of their machine-sensible records must be retained and which records may be discarded. These determinations require a consideration of all the facts and circumstances, including whether duplicated or redundant records exist.
 - B) In general, taxpayers should retain the machine-sensible records that are the most direct evidence of the transactions, and have discretion to discard duplicated records and redundant information. In exercising this discretion, the taxpayer should generally retain those records that best facilitate the retrieval and processing of the data during an audit. For example, departmental records stored in departmental data files that are duplicated in a central system could be discarded provided that all required information in the departmental records is contained in the central system and the requirements of this Section are met. Similarly, daily or weekly data files could be discarded provided that appropriate monthly, quarterly or annual data files with the ability to access appropriate transaction-level records are available.
 - C) In conjunction with meeting the requirements of this Section, a taxpayer may create files solely for the use of the Department. For example, if a database management system is used, it is consistent with this Section for the taxpayer to create and retain a file that contains the transaction-level detail from the database management system and that meets the requirements of the Section. The taxpayer should document the process that created the separate file to show the relationship between that file and the original records.
 - D) A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the taxpayer of its responsibilities under this Section.

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- c) Alternative Storage Media. For purposes of storage and retention, taxpayers may convert hard-copy documents received or produced in the normal course of business and required to be retained under this Section to microfilm, microfiche or other storage-only imaging systems and may discard the original hard-copy documents, provided the conditions of this Section are met. These records are not a substitute for machine-sensible records (e.g., magnetic tapes, magnetic cartridges or magnetic disks) described in subsection (b) of this Section. Documents which may be stored on these media include, but are not limited to, general books of account, journals, voucher registers, general and subsidiary ledgers and supporting records of details, such as sales invoices, purchase invoices, exemption certificates and credit memoranda. Microfilm, microfiche and other storage-only imaging systems shall meet the following requirements:
 - 1) Documentation establishing the procedures for converting hard-copy documents to microfilm, microfiche or other storage-only imaging systems must be maintained and made available on request. Such documentation shall, at a minimum, contain sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.
 - 2) Procedures must be established for the effective identification, processing, storage and preservation of the stored documents and for making them available for the periods they are required to be retained under the Retailers' Occupation Tax Act [35 ILCS 120].
 - 3) All data stored on microfilm, microfiche or other storage-only imaging systems must be maintained and arranged in a manner that permits the location of any particular record.
 - 4) Microfiche, microfilm or other storage-only imaging systems records must be indexed, cross-referenced and labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and must be systematically filed to permit the immediate location of any particular record. A posting reference must be on each document and a control log or catalog of such documents must be maintained.
 - 5) Upon request of the Department, a taxpayer must provide facilities and equipment, in good working order, for reading, locating and reproducing any documents maintained on microfilm, microfiche or other storage-only imaging systems.
 - 6) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognized as words or complete numbers.
 - 7) There must be no substantial evidence that the microfilm,

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microfiche or other storage-only imaging systems lack authenticity or integrity.

d) Effect on Hard-Copy Recordkeeping Requirements

1) Except as otherwise provided, the provisions of this Section do not relieve taxpayers of the responsibility to retain hard-copy records that are created or received in the ordinary course of business as required by existing law and regulations. Hard-copy records may be retained on a recordkeeping medium provided in subsection (c).

2) If hard-copy records are not produced or received or required to be produced or received in the ordinary course of transacting business (i.e., when the taxpayer uses electronic data interchange technology), such hard-copy records need not be created.

3) Unless hard-copy records are required to be provided or received, hard-copy records generated at the time of a transaction need not be retained if all the details relating to the transaction are subsequently received by the taxpayer in an EDI transaction and are retained by the taxpayer in accordance with this Section.

4) Hard-copy records generated at the time of a transaction using a credit or debit card must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this Section. Such details include, but may not be limited to, those listed in subsection (b)(2)(B).

5) Computer printouts that are created for validation, control or other temporary purposes need not be retained.

6) Nothing in this Section shall prevent the Department from requesting hard-copy printouts of retained machine-sensible records. These requests may be made either at the time of an examination or in conjunction with the testing described in Section 130.825 of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.810 Records Required to Support Deductions

a) Where the nature of a business is such that charge and time sales are made, or where the nature of the business is such that a portion of its sales are for resale, or are within the protection of the Commerce Clause of the Constitution of the United States, or consist of services, or are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or are made on or after March 21, 1963, to a governmental body, or are exempt from the Retailers' Occupation Tax on some other ground, then such records as will clearly indicate the information required in filing returns must

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be kept.

b) To support deductions made on the tax return form, as authorized under the Act, on account of receipts from isolated or occasional sales of tangible personal property, on account of receipts from sales of tangible personal property for resale, on account of receipts from sales of tangible personal property made within the protection of the Commerce Clause of the Constitution of the United States, on account of receipts received by the seller from sales made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, on account of receipts received by the seller from sales made on or after March 21, 1963, to any governmental body or on any other ground, entries in any books, records or other pertinent papers or documents of the taxpayer in relation thereto shall be in detail sufficient to show the name and address of the taxpayer's customer in each such transaction, the character of every such transaction (whether it is a sale for resale, a sale made within the protection of the Commerce Clause of the Constitution of the United States, an isolated or occasional sale, etc.), the date of every such transaction, the amount of receipts realized from every such transaction and such other information as may be necessary to establish the nontaxable character of such transaction under the Act.

c) Except in the case of a sale to a purchaser who will always resell and deliver the property to his customers outside Illinois, anyone claiming that he has made a nontaxable sale for resale in some form as tangible personal property shall also keep a Certificate of Resale from the purchaser that contains the information required under Section 130.1405 of this Part ~~record-of-the-purchase's-registration number-or-resale-number-with-the-Department~~. The failure to obtain and keep a Certificate of Resale ~~record-of-the-purchase's-registration-number-or-resale-number~~ shall create a presumption that the sale was not a sale for resale. The seller may, however, present other documentary evidence ~~from its books-and-records~~ to overcome this presumption [see Section 130.1405(d) of this Part].

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.815 Preservation and Retention of Records

a) Books and records and other papers reflecting gross receipts received during any period with respect to which the Department is authorized to issue Notices of Tax Liability as provided by Sections 4 and 5 of the Act shall be preserved until the expiration of such period unless the Department, in writing, shall authorize their destruction or disposal prior to such expiration.

b) In determining the period for which the Department is authorized to issue a Notice of Tax Liability, the following material from Sections

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4 and 5 of the Act must be considered.

- c) Except in case of ~~willful failure or refusal~~ to file a return, or except in case of a fraudulent return (in which two instances, there is no statute of limitations), or except in the case of an amended return (where a Notice of Tax Liability may be issued on or after each January 1 and July 1 for an amended return filed not more than 3 years prior to such January 1 or July 1, respectively), or except with the consent of the person to whom the Notice of Tax Liability is to be issued, no Notice of Tax Liability shall be issued on and after each January 1 and July 1 covering gross receipts received during any month or period of time more than 3 years prior to such January 1 and July 1, respectively:

1) provided, however, that the foregoing limitations upon the issuance of a Notice of Tax Liability shall not apply to:

- A) the issuance of a Notice of Tax Liability with respect to any period of time prior thereto in cases where the Department has, within the period of limitation then provided, notified the person making the return of a Notice of Tax Liability even though such return, with which the tax that was shown by such return to be due was paid when the return was filed, had not been corrected by the Department in the manner required by Section 4 of the Act prior to the issuance of such notice, and

2) provided that ~~the foregoing limitations upon the issuance of a Notice of Tax Liability shall not apply to~~

- B) the issuance of any such Notice with respect to any period of time prior thereto in cases where the Department has, within the period of limitation then provided, notified a person of the amount of tax computed even though the Department had not determined the amount of tax due from such person in the manner required by Section 5 of the Act prior to the issuance of such Notice; but in no case shall the amount of any such Notice of Tax Liability for any period otherwise barred by the Act exceed for such period the amount shown in the Notice of Tax Liability theretofore issued.

(3) If, when a tax or penalty or interest under the Act becomes due and payable, the person alleged to be liable therefor shall be out of the State, the Notice of Tax Liability may be issued, within the time limited by the Act, after his coming into or return to the State; and if, after the tax or penalty or interest under the Act becomes due and payable, the person alleged to be liable therefor departs from and remains out of the State, the time of his absence is no part of the time limited for the issuance of the Notice of Tax Liability; but the foregoing provisions concerning absence from the State shall not apply to any case in which, at the time when a tax or penalty or interest becomes due under the Act, the person allegedly liable therefor is not a resident of this State.

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e4) The time limitation period on the Department's right to issue a Notice of Tax Liability shall not run during any period of time in which the Order of any Court has the effect of enjoining or restraining the Department from issuing the Notice of Tax Liability.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART I: PENALTIES AND INTEREST

Section 130.901 Civil Penalties

Beginning January 1, 1994, the Uniform Penalty and Interest Act [35 ILCS 735] applies to civil penalties imposed for violations of the Retailers' Occupation Tax Act or of any regulation of the Department issued pursuant to that Act. For explanations and examples of the application of these penalties, please refer to 86 Ill. Adm. Code 700.300-340. The Retailers' Occupation Tax Act provided provides the following penalties for violations of the Act or of any Regulation of the Department issued pursuant thereto prior to January 1, 1994:

- a) Filing an Incorrect Return
 "If the tax computed upon the basis of the gross receipts as fixed by the Department is greater than the amount of tax due under the return or returns as filed, the Department shall (or if the tax or any part thereof that is admitted to be due by a return or returns, whether filed on time or not, is not paid, the Department may) issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty of 10% thereof: Provided, that if the incorrectness of any return or returns as determined by the Department is due to fraud, said penalty shall be 30% of the tax due" (Section 4 of the Act). The above-quoted penalties apply on or after January 1, 1988 through December 31, 1993.

b) Failure to File Return When Required, but Payment Prior to Notice of Tax Liability

"In cases any person engaged in the business of selling tangible personal property at retail fails to file a return when and as herein required, but thereafter, prior to the Department's issuance of a notice of tax liability under this section, files a return and pays the tax, he shall also pay a penalty of 10% of the amount of the tax." (Section 5 of the Act)

1) The above-quoted penalty applies January 1, 1988 through December 31, 1993.

A) EXAMPLE: The taxpayer's return for November 1987, is required to be filed on or before December 31, 1987. The taxpayer files the return on January 10, 1988. Because the return is filed late in January 1988, it is subject to the 10% penalty rate that went into effect January 1, 1988.

B) EXAMPLE: The taxpayer's return for October 1, 1987, is required to be filed on or before November 30, 1987. The

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taxpayer files the return on December 12, 1987. Because the return is filed late during December 1987, it is subject to the 7.5% penalty rate that was in effect during December 1987.

- 2) As to tax liability incurred before November 1, 1987, but on or after December 1, 1984, the penalty in this situation is 7.5%.
- c) Filing Return at Required Time but Failure to Pay Tax

"In case any person engaged in the business of selling tangible personal property at retail files the return at the time required by the Act but fails to pay the tax, or any part thereof, when due, a penalty of 10% of the amount of the tax unpaid when due shall be added thereto." (Section 5 of the Act)

 - 1) The above-quoted penalty applies on or after January 1, 1988 through December 31, 1993.
 - 2) As to tax liability incurred before January 1, 1988, but on or after December 1, 1984, the penalty in this situation is 7.5%.
- d) Filing Late Return Without Payment of Entire Tax

"In case any person engaged in the business of selling tangible personal property at retail fails to file a return when and as herein required, but thereafter, prior to the Department's issuance of a notice of tax liability under this section, files a return but fails to pay the entire tax, a penalty of 10% of the full amount of tax shown by such return shall be added thereto." (Section 5 of the Act)

 - 1) The above-quoted penalty applies on or after January 1, 1988 through December 31, 1993.
 - 2) As to tax liability incurred before January 1, 1988, but on or after December 1, 1984, the penalty in this situation is 7.5%.

- e) Failure to File Return When Required, and Failure to Pay Prior to Notice by Department

"In case any person engaged in the business of selling tangible personal property at retail fails to file a return, the Department shall determine the amount of tax due from him according to its best judgment and information, which amount so fixed by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown in such determination..." The Department shall issue the taxpayer a notice of tax liability for the amount of tax claimed by the Department to be due, together with a penalty of 30% thereof." (Section 5 of the Act)

- 1) The above-quoted penalty applies to tax liability incurred on or after December 1, 1984 through December 31, 1993.
- 2) As to tax liability incurred before December 1, 1984, but after July 1, 1965, the penalty in this situation is 20%.

- f) Beginning January 1, 1994, the Uniform Penalty and Interest Act applies to penalties imposed pursuant to Section 5 of the Act; Section 3-3 of the Uniform Penalty and Interest Act provides that:
 - 1) A penalty of 5% of the tax required to be shown due on a return shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any

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extension of time for filing a penalty for late filing or nonfiling, if any unprocessable return is corrected and filed within 21 days after notice by the Department, the late filing or nonfiling penalty shall not apply; if a penalty for late filing or nonfiling is imposed in addition to a penalty for late filing payment, the total penalty due shall be the sum of the late filing penalty and the applicable late payment penalty.

- 2) A penalty of 1% of the tax shown on the return or the tax required to be shown due on the return shall be imposed for failure to pay:
 - A) the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506 of the Illinois Income Tax Act; or
 - B) the full amount of any tax required to be shown due on a return and which is not shown (penalty for late payment or nonpayment of additional liability, within 21 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department; in the case of a final assessment arising following a protest and hearing, the 21-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted; in the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this Section shall be imposed at the expiration of the period provided for the filing of a protest (Section 3-3(b) of the Uniform Penalty and Interest Act).

- (5) Effect of a Taxpayer's Bankruptcy Filing Upon a Notice of Tax Liability

Generally, if a protest to a notice of tax liability and a request for hearing is not filed within 60 days after issuance of a Notice of Tax Liability notice of tax liability (NTL), such NTL notice of tax liability shall become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment. (See Section 5 of the Act) However, if prior to the issuance of the NTL, a taxpayer has filed a petition in U.S. Bankruptcy Court and the automatic stay is still in effect, or if a taxpayer files such a petition within 60 days after the issuance of an NTL, the automatic stay prevents any pre-petition liability included in the NTL from becoming final even though not protested within 60 days after the issuance of the NTL. If any pre-petition tax included in the NTL is not paid to the Department through the bankruptcy proceeding, adjudicated by the bankruptcy court, or discharged by the bankruptcy

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court, the taxpayer has 20 days after termination of the automatic stay to protest the pre-petition liability and request an administrative hearing pursuant to 86 Ill. Adm. Code 200.00(g). Over-collection of Tax, or Collection of Tax on Nontaxable Receipts. If a seller collects an amount (however designated) that purports to reimburse the seller for Retailers' Occupation Tax retailers' occupation-tax liability measured by receipts that are not subject to retailers' occupation tax, or if a seller, in collecting an amount (however designated) that purports to reimburse the seller for Retailers' Occupation Tax retailers' occupation-tax liability measured by receipts that are subject to tax under the Act, collects more from the purchaser than the seller's Retailers' Occupation Tax retailers' occupation-tax liability on the transaction, the purchaser shall have a legal right to claim a refund of that amount from the seller. If, however, that amount is not refunded to the purchaser for any reason, the seller is liable to pay that amount to the Department. This subsection (g) paragraph does not apply to an amount collected by the seller as reimbursement for the seller's Retailers' Occupation Tax retailers' occupation-tax liability on receipts that are subject to tax under this Act as long as such collection is made in compliance with the tax collection brackets prescribed by the Department in its rules and regulations.⁴ (Section 2-40 of the Act) For example, a lessor of tangible personal property who paid Use Tax up front upon acquisition of the rental property collects an amount described in the rental statements as a "tax" from lessees. Because the lease contract payment amounts do not generate a tax, the amounts collected as a "tax" are a collection of tax on nontaxable receipts and the lessee has a legal right to claim a refund of that amount. If the amount is not refunded, the taxpayer must pay the amount to the Department. (See John Nottoli, Inc. v. Department of Revenue (Fourth Dist. 1995, 272 Ill.App.3d 822).)

h) Filing Late Return Due to "Reasonable Cause"

- 1) The penalties imposed under Sections 3-3, 3-4 and 3-5 of the Uniform Penalty and Interest Act shall not apply if the taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. "However, where the failure to file any tax return required under this Act on the date prescribed therefor including any extensions therefor, is shown to be unintentional and nonfraudulent and has not occurred in the 2 years immediately preceding the failure to file on the prescribed date or is due to other reasonable cause the penalties imposed by this Act shall not apply." (Section 5 of the Act)

- 2) The Department will decide whether to abate a penalty by considering the extent to which the taxpayer made a good faith effort to determine his proper tax liability and pay his proper liability in a timely fashion. In making this determination the Department will use the standards set out in the Reasonable Cause

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Section (86 Ill. Adm. Code 700.400) of the Uniform Penalty and Interest Act regulations. In general, a reasonable cause for the failure to file any return would be what is acceptable to the federal government for federal income tax purposes as a reasonable cause for failure to file a federal income tax return.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.905 Interest

- a) In addition to any penalty provided for in this Act, any amount of tax which is not paid when due shall bear interest at the rate of 1% prior to September 17, 1981, and at the rate of 2% on and after September 17, 1981 and prior to January 1, 1987, and at the rate of 1.25% on and after January 1, 1987 through December 31, 1993, per month or fraction thereof from the date when such tax becomes past due until such tax is paid or a judgment therefor is obtained by the Department. Beginning January 1, 1994, any amount of tax which is not paid when due shall bear interest at the rate and in the manner specified in Section 3-2 and 3-9 of the Uniform Penalty and Interest Act from the date when such tax becomes past due until such tax is paid or a judgment therefor is obtained by the Department. Interest shall be simple interest calculated on a daily basis. Interest shall accrue upon tax and penalty due. [35 ICSS 735/3-2(c)] (See 86 Ill. Adm. Code 700.400, Interest Paid and Interest Charged, 86 Ill. Adm. Code 700.210, Interest Rate Calculation, and 86 Ill. Adm. Code 700.220, Interest Charged Taxpayers.)

- b) If the time for making or completing an audit of a taxpayer's books and records is extended with the taxpayer's consent, at the request of and for the convenience of the Department, beyond the date on which the statute of limitations upon the issuance of a notice of tax liability by the Department otherwise would run, no interest shall accrue during the period of such extension or until a Notice of Tax Liability is issued, whichever occurs first. (Section 5 of the Act)

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.910 Criminal Penalties

Section 13 of the Act details the criminal penalties for violation of the Retailers' Occupation Tax Act.

- a) Failure to File Returns and Filing Fraudulent Returns When the amount due is under \$300, any person engaged in the business of selling tangible personal property at retail in this State who fails to file a return, or who files a fraudulent return, or any

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officer, employee or agent of a corporation, member, employee or agent of a partnership, or manager, member, agent, or employee of a limited liability company engaged in the business of selling tangible personal property at retail in this State who is under a duty to file a return, who files or causes to be filed or signs or causes to be signed a fraudulent return filed on behalf of such corporation or limited liability company, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under the Act, is guilty of a Class 4 felony:

When the amount due is \$300 or more, any person engaged in the business of selling tangible personal property at retail in this State who fails to file a return, or who files a fraudulent return, or any officer, employee or agent of a corporation, member, employee or agent of a partnership, or manager, member, agent, or employee of a limited liability company engaged in the business of selling tangible personal property at retail in this State who is under a duty to file a return, who files or causes to be filed or signs or causes to be signed a fraudulent return filed on behalf of such corporation or limited liability company, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under the Act, is guilty of a Class 3 felony.

- b) Failure to Comply with Certificate of Registration or Books and Records Requirements

It is unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration issued by the Department pursuant to Section 2a of the Act. Any person who violates Section 2a of this Act, or who fails to keep books and records, or fails to produce books and records, as required by Section 7 of the Act, or who willfully violates a rule or regulation of the Department for the administration and enforcement of the Act, is guilty of a Class A misdemeanor. Any person who engages in the business of selling tangible personal property at retail after the certificate of registration of that person has been revoked is guilty of a Class A misdemeanor. Each day a person engages in business without a certificate of registration or after revocation of its certificate of registration constitutes a separate offense.

- c) Misrepresentation - Registration/Resale Number
- Any purchaser who obtains a registration number or resale number from the Department through misrepresentation, or who represents to a seller that such purchaser has a registration number or resale number from the Department when he knows that he does not, or who uses his registration number or resale number to make a seller believe that he is buying tangible personal property for resale when such purchaser in fact knows that this is not the case, is guilty of a Class 4 felony.

- d) Over-Collection of Tax
- Any seller who collects or attempts to collect an amount (however designated) that purports to reimburse the seller for Retailers'

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Occupation Tax liability measured by receipts that the seller knows are not subject to Retailers' Occupation Tax, or if a seller knowingly over-collects or attempts to over-collect an amount that purports to reimburse the seller for Retailers' Occupation Tax liability in a transaction subject to tax under the Act, shall be guilty of a Class 4 felony for each such offense. This subsection does not apply to an amount collected by the seller as reimbursement for the seller's Retailers' Occupation Tax liability on receipts that are subject to tax under the Act as long as such collection is made in compliance with the tax collection brackets prescribed by the Department in its rules and regulations.

- e) Prepaid Sales Tax Violations
- Any distributor, supplier or other reseller of motor fuel registered pursuant to Section 2a or 2c of the Act who fails to collect the prepaid tax on invoiced gallons of motor fuel sold or who fails to deliver a statement of tax paid to the purchaser or to the Department as required by Sections 2d and 2e of the Act, respectively, shall be guilty of a Class A misdemeanor if the amount due is under \$300, and a Class 4 felony if the amount due is \$300 or more.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART J: BINDING OPINIONS

Section 130.1001 When Opinions from the Department are Binding

- a) Taxpayers may not rely on verbal opinions from Department employees. For Department rules concerning the binding effect of Private Letter Rulings and General Information Letters, see 2 Ill. Adm. Code 1200.
- b) For Department rules concerning the rescission of Private Letter Rulings, see 2 Ill. Adm. Code 1200.
- c) As used in this Part, "Regulation" means any Department rule or Regulation of general application, whether called a "Rule", a "Regulation", an "Article", a "Section", a "Part" or something else.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section 130.1201 General Information

- a) Any report, claim, tax return, statement or other document required or authorized to be filed with or any payment made to the Department of Revenue, which document or payment is transmitted through the United States mail, will be deemed to have been filed with and received by the Department on the date shown by the post office

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cancellation mark stamped upon the envelope or other appropriate wrapper containing it. If mailed but not received by the Department, or if received but the cancellation mark is illegible, erroneous or omitted, the document or payment will be deemed to have been filed on the date it was mailed if the sender establishes by competent evidence that the document or payment was deposited in the United States mail on or before the date due for filing. If the envelope or other wrapper bears a postmark made by a private postage meter in addition to a legible postmark made by the United States Postal Service, the postmark not made by the United States Postal Service shall be disregarded. In the event of the Department's failure to receive a document or payment required by law to be filed, such document or payment will be deemed to have been received by the Department on time if the sender files with the Department a duplicate within 30 days after written notification is given to the sender by the Department of its failure to receive such document or payment, provided proof is furnished that the original of the document was deposited in the United States mail on or before the date due for filing.

b) If any report, claim, tax return, statement, remittance or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of such registration, certification or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed, and the date of registration, certification or certificate shall be deemed to be the date of the postmark made by the United States Postal Service.

c) Reports, claims, tax returns, statements, remittances or other documents delivered by means other than the United States mail are considered to be filed on the date they are received by the Department.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section 130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises Department

If a lessee operates a business on the lessor's premises under the identity of the lessor, then the lessor must report and remit ~~should account to the State for the lessee's tax on the lessor's his Retailers' Occupation Tax return. However, if it the lessor is required to be responsible for the Retailers' Occupation Tax of a leased department and the lessor permits the lessee to file his own Retailers' Occupation Tax return, the Department Revenue reserves the right to proceed against the lessor or the lessee or both in the event that the Retailers' Occupation Tax liability incurred by virtue of the operation of such the business operated on the lessor's premises leased~~

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department is not properly discharged. An example of such an arrangement is an antique store where spaces are rented to different antique dealers, but the entire store is operated under the identity of the antique store/lessor.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART N: SALES FOR RE SALE

Section 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

a) A person who sells tangible personal property to a purchaser who may use or consume such property within the meaning of the Act, but who also may resell such property, must determine, at the time when he sells the property to such purchaser, whether the purchaser is buying the property "for use or consumption" within the meaning of the Act or whether the purchaser is buying the property "for resale". Section 2C of the Act provides that purchasers of tangible personal property for resale shall apply to the Department for resale numbers. In determining whether a sale is for resale, the seller shall request that the purchaser provide a resale number and certification that the sale is for resale. This determination is required in order that the seller may properly file the returns required by the Act and compute his tax liability. So long as the seller obtains a certificate of resale from the purchaser that contains all information required by Section 130.1405, the seller need not verify that the tangible personal property he sells for resale is actually resold.

b) This determination is not necessary (and no Certificate of Resale is therefore required) as to sales made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older, or as to sales made on or after March 21, 1963, to a governmental body because receipts from such sales are exempted from the Act whether such sales are at retail or whether such sales are for resale. For information concerning sales to purchasers of the kind listed in the preceding sentence, see Sections 130.2005 and 130.2080 of this Part. If the sale to such a purchaser in fact is a sale for resale, the seller is still permitted to claim exemption from the tax on the ground that such sale is a sale for resale and to obtain a corroborating Certificate of Resale from the purchaser.

c) For information concerning resale certifications by construction contractors who are also retailers of building materials, see Section 130.2075 of this Part.

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- d) For information concerning resale certifications by servicemen who are also retailers, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale

- a) Except in the case of sales to totally exempt purchasers, when sales for resale are made, sellers should, for their protection, take a Certificate of Resale from the purchaser. Mere statements by sellers that property was sold for resale will not be accepted by the Department without corroborative evidence. Certificates of Resale may be made a part of purchase orders signed by the purchaser.

- b) A Certificate of Resale is a statement signed by the purchaser that the property purchased by him is purchased for purposes of resale. Provided that this statement is correct, the Department will accept Certificates of Resale as prima facie proof that sales covered thereby were made for resale. In addition to the statement, a Certificate of Resale must contain:

- 1) The seller's name and address;
- 2) the purchaser's name and address;
- 3) a description of the items being purchased for resale;
- 4) purchaser's signature, or the signature of an authorized employee or agent of the purchaser, and date of signing;
- 5) Registration Number, Resale Number, or Certification of Resale to Out-of-State Purchaser

- A) purchaser's registration number with the Illinois Department of Revenue; or
- B) purchaser's resale number issued by the Department of Revenue; or
- C) a statement that the purchaser is an out-of-State purchaser who will sell only to purchasers located outside the State of Illinois.

For information regarding the Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale, see 86 Ill. Adm. Code 130.1401.

- c) If all of a purchaser's procedures are for resale, a purchaser may provide a blanket Certificate of Resale to a seller.

- 1) While there is no statutory requirement that blanket Certificates of Resale be renewed at certain intervals, blanket Certificates should be updated periodically, and no less frequently than every three years.

- 2) If a purchaser knows that a certain percentage of all purchases from a given seller will be made for purposes of resale, he may accept a blanket Certificate of Resale stating that a designated

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percentage of the sales made by such seller to such purchaser will be made for purposes of resale.

- d) *Failure to present an active registration number or resale number and a certification to the seller that a sale is for resale creates a presumption that a sale is not for resale. This presumption may be rebutted by other evidence that all of the seller's sales are sales for resale, or that a particular sale is a sale for resale (Section 2c of the Act).* For example, other evidence that might be used to document a sale for resale, when a registration number or resale number and certification to the seller are not provided, could include an invoice from the purchaser to his customer showing that the item was actually resold, along with a statement from the purchaser explaining why it had not obtained a resale number and certifying that the purchase was a purchase for resale in Illinois.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.1415 Resale Number -- When Required and How Obtained

- a) If the purchaser is not registered with the Department as a taxpayer, but claims to be a reseller of the tangible personal property in such a way that such resales are not taxable under the Retailers' Occupation Tax Act or under some other tax law which the Department may administer, such purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for tax under the this Act or under some other tax law which the Department may administer on any of his resales and shall furnish such additional information as the Department may reasonably require.

- b) Examples of purchasers for resale who would need a resale number from the Department are persons who sell only to schools and other totally exempt purchasers and persons who resell only to purchasers who in turn resell the property apart from engaging in a service occupation--a nonprofit organization--which has such an occasional liability as a reseller that it will discharge--its liability--on--a--basis--and--final--return--basis--discharge--of--by--having--a--continuing registration with the Department, etc.

- c) Upon approval of the application, the Department will assign a resale number to the applicant and will certify such number to him. The Department may cancel any such number which is obtained through misrepresentation, or which is used to make a purchase tax-free when the purchase in fact is not a purchase for resale, or which no longer applies because of the purchaser's having discontinued the making of tax exempt resales of the property.

- d) The Department may restrict the use of the number to one year at a

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- time or to some other definite period if the Department finds it impracticable or otherwise inadvisable to issue such numbers for indefinite periods.
- e) Except as provided in this Subpart, a sale shall be made tax-free on the ground of being a sale for resale if the purchaser has an active registration number or resale number from the Department and furnishes that number to the seller in connection with certifying to the seller that any sale to such purchaser is nontaxable because of being a sale for resale.
- f) For the purpose of enabling agricultural producers to buy feed, seed, fertilizer and baby chicks for resale to the extent permitted by Sections 130.2100, 130.2110 and 130.1970 of this Part and still be in compliance with Section 2c of the Retailers' Occupation Tax Act, such agricultural producers who are not registered with the Department as retailers will be given a resale number as a class without making application, individually, to the Department therefor, with all such persons being assigned the same resale number by the Department.
- g) The Department will assign Resale Number 0110 to all such buyers of feed, seed, fertilizer and baby chicks for this purpose.
- h) Nothing that is stated hereinabove changes anything contained in Sections 130.2100, 130.2110 and 130.1970 of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section 130.1501 Claims for Credit--Limitations--Procedure

a) Limitations Upon Claims

- 1) Where a taxpayer under the Retailers' Occupation Tax Act pays to the Department an amount of tax or penalty or interest not due under the provisions of the Act, either at the result of a mistake of fact or an error of law, such taxpayer may file a claim for credit with the Department. Beginning August 17, 1999, tax is deemed to be erroneously paid by a retailer when the manufacturer of a motor vehicle sold by the retailer accepts the return of that automobile and refunds to the purchaser the purchase price of the vehicle, as provided in Section 3 of the New Vehicle Buyer Protection Act (815 ILCS 380/3). The claim is limited to taxes applicable to the purchase price of the automobile refunded to the consumer, which includes all collateral charges required to be included in the sales tax calculation (e.g., documentary fees), but does not include any reasonable allowance for consumer use of the automobile deducted from the purchase price by the manufacturer. Retailers filing such claims must comply with all requirements of this Section. The Department cannot approve any claim for credit unless
- 2) The Department cannot approve any claim for credit unless

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proof submitted in support thereof clearly establishes that the claimant has borne the burden of the tax erroneously paid or that he has unconditionally repaid the amount of the tax to his vendee from whom he has collected such amount. In the latter event, the claimant must also prove that his vendee has borne the burden of such amount or has unconditionally repaid persons to whom such vendee has shifted the burden of such amount (see Section 6 of the Retailers' Occupation Tax Act).

- 3) In addition, if the Retailers' Occupation Tax was paid on receipts from a sale made on or after August 1, 1955, no credit shall be allowed for any such amount paid by or collected from any claimant unless it shall appear that the claimant has unconditionally repaid, to the purchaser, any amount collected from the purchaser and retained by the claimant with respect to the same transaction under the Use Tax Act.
- 4) The Department cannot approve any claim for credit to the extent that the amount claimed is an amount which has been paid (voluntarily or involuntarily) in total or partial liquidation of an assessment which had become final before the claim for credit to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment, order or decree of court. Also, all claims for credit are subject to the statute of limitations, as follows:
- Provided that as to any claim for credit filed with the Department on and after each January 1 and July 1 no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the ~~this~~ Act) more than 3 years prior to such January 1 and July 1, respectively, shall be credited; . . . except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability as provided in Section 4 of ~~this~~ Act, such claim may be filed at any time prior to the expiration of the period agreed upon. (Section 6 of the Act)
- This means that the normal statute of limitations will vary from 3 to 3 1/2 years as shown in the following examples:
- A) On June 29, 1999, a taxpayer files a claim with the Department. The credit may be allowed for amounts paid on or after January 1, 1996. The credit will not be allowed for amounts paid on or before December 31, 1995.
- B) A taxpayer files a claim with the Department on July 2, 1999. In this case, amounts paid on or before June 30, 1996 were paid more than three years prior to July 1, 1999 and are not subject to refund.
- C) A taxpayer files a claim on November 30, 1999 for the months of October through December 1996. The claim will be processed by the Department because the time period that is open under the statute of limitations extends back through July 1, 1996.

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D) A taxpayer files a claim on January 5, 2000 for the months of October through December 1996. The claim will not be approved by the Department because it is barred by the statute of limitations. A claim filed on January 5, 2000 only has open periods back through January 1, 1997.

b) Filing of Claims

1) Claims for credit shall be prepared and filed upon forms provided by the Department. Each claim shall state:

- A) the name and principal business address of the claimant;
- B) the period covered by the claim;
- C) the total amount of credit claimed, giving in detail the net amount of taxable receipts reported each month or other return period used by the claimant as the basis for filing returns in the period covered by the claim;
- D) the total amount of tax paid for each return period;
- E) receipts upon which tax liability is admitted for each return period;
- F) the amount of receipts on which credit is claimed for each return period;
- G) the tax due for each return period as corrected;
- H) the amount of credit claimed for each return period;
- I) reason or reasons why the amount, for which the claim is filed, is alleged to have been paid in error;
- J) a list of the evidence (documentary or otherwise) which the claimant has available to establish his compliance with Section 6 as to bearing the burden of the tax for which he seeks credit;
- K) payments or parts thereof (if any) included in the claim and paid by the claimant under protest;
- L) sufficient information to identify any suit which involves the Act, and to which the claimant is a party; and
- M) such other information as the Department may reasonably require.

2) Where the claimant is a corporation, the claim filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.

3) A claim for credit shall be considered to have been filed with the Department on the date upon which it is received by the Department. [See Sections 130.1201 and 130.1205 of this Part for further information regarding when claims are deemed to be "received" by the Department.]

4) Upon receipt of any claim for credit filed under the Act, any officer or employee of the Department, authorized in writing by the Director of Revenue to acknowledge receipt of such claims on behalf of the Department, shall execute on behalf of the Department, and shall deliver or mail to the claimant or his duly authorized agent, a written receipt, acknowledging that the claim

has been filed with the Department, describing the claim in sufficient detail to identify it and stating the date upon which the claim was received by the Department.

5) Such written receipt shall be prima facie evidence that the Department received the claim described in such receipt and shall be prima facie evidence of the date when such claim was received by the Department.

6) In the absence of such a written receipt, the records of the Department as to when the claim was received by the Department, or as to whether or not the claim was received at all by the Department, shall be deemed to be prima facie correct upon these questions in the event of any dispute between the claimant (or his legal representative) and the Department concerning these questions. (See Section 6a of the Act.)

c) Procedure After Filing of Claims

1) The Department will examine each claim for credit as soon as practicable after such claim is filed and will notify the claimant (or his legal representative, if the claim is filed by such legal representative, or if the claimant has died or become incompetent and such legal representative has notified the Department of his appointment and qualification as such legal representative, or if the Department, on its own motion, has substituted such legal representative in the proceeding for the deceased or incompetent claimant) of its Tentative Determination of the amount of credit, if any, to which the claimant or his legal representative is entitled.

2) If such claimant, or the legal representative of a deceased or incompetent taxpayer, shall, within 60 days after the Department's Notice of Tentative Determination of Claim, file a protest ~~thereof~~ and request a hearing ~~thereon~~, the Department shall give notice to the ~~such~~ claimant, or to the legal representative of a deceased or incompetent taxpayer, of the time and place fixed for the ~~such~~ hearing, and shall hold a hearing in conformity with the provisions of the Act, and pursuant thereto shall issue its Final Determination of the amount of credit, if any, found to be due as a result of the ~~such~~ hearing, to the ~~such~~ claimant, or to the legal representative of a deceased or incompetent taxpayer.

3) If a protest to the Department's Notice of Tentative Determination of Claim is not filed within 60 days and a request for a hearing ~~thereon~~ is not made as ~~hereinafter~~ provided in Subsection (c)(2), the ~~said~~ Notice shall thereupon become and operate as a Final Determination. (See Sections 6b and 6c of the Act.)

d) Use of Credit Memoranda to Satisfy Prior Rights of Department

1) If, following the above procedure, a credit is found to be due, as evidence thereof a credit memorandum for such amount shall be issued in the name of the claimant.

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a) If any taxpayer, outside the usual course of his business, sells or transfers the major part of any one or more of:

- 1) the stock of goods which he is engaged in the business of selling, or
- 2) the furniture or fixtures, or
- 3) the machinery and equipment, or
- 4) the real property of any business that is subject to the provisions of the Act,

the purchaser or transferee of such assets shall, no later than 10 days after the sale or transfer, file a notice of sale or transfer of business assets with the Chicago Office of the Department disclosing the name and address of the seller or transferor, the name and address of the purchaser or transferee, the date of the sale or transfer, a copy of the sales contract and financing agreements that shall include a description of the property sold, the amount of the purchase price or a statement of other consideration for the sale or transfer, the terms for payment of the purchase price and such other information as the Department may reasonably require. If the purchaser or transferee fails to file the above-described report of sale with the Department within the prescribed time, the purchaser or transferee shall be personally liable for the amount owed under this Section by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The seller or transferor shall pay the Department the amount of tax, penalty and interest (if any) due from him under the Act up to the date of the payment of tax. The seller or transferor, or the purchaser or transferee, at least 10 days before the date of the sale or transfer, may notify the Department of the intended sale or transfer and request the Department to audit the books and records of the seller or transferor or to do whatever else may be necessary to determine how much the seller or transferor owes to the Department under the Act up to the date of the sale or transfer. The Department shall take such steps as may be appropriate to comply with the request. The purchaser or transferee of such assets shall, no later than 10 days after the sale or transfer, file a notice of sale or transfer of business assets with the Chicago Office of the Department disclosing the name and address of the seller or transferor, the name and address of the purchaser or transferee, the date of the sale or transfer, a copy of the sales contract and financing agreements which shall include a description of the property sold, the amount of the purchase price or a statement of other consideration for the sale or transfer, the terms for payment of the purchase price and such other information as the Department may reasonably require. If the purchaser or transferee fails to file the above-described report of sale with the Department within the prescribed time, the purchaser or transferee shall be personally liable for the amount owed hereunder by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee.

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transferee. The seller or transferor shall pay the Department the amount of tax, penalty and interest (if any) due from him under the Act up to the date of the payment of tax. The seller or transferor, or the purchaser or transferee, at least 10 days before the date of the sale or transfer, may notify the Department of the intended sale or transfer and request the Department to audit the books and records of the seller or transferor or to do whatever else may be necessary to determine how much the seller or transferor owes to the Department under the Act up to the date of the sale or transfer. The Department shall take such steps as may be appropriate to comply with such request.

b) Any order issued by the Department pursuant to the Act and this Section to withhold from the purchase price shall be issued within 10 days after the Department receives notification of a sale as provided in the Act and this Section. The purchaser or transferee shall withhold such portion of the purchase price as may be directed by the Department, but not to exceed a minimum amount varying by type of business plus twice the outstanding unpaid liabilities and twice the average liability of preceding filings times the number of unfilled returns to cover the amount of all tax, penalty and interest due and unpaid by the seller or transferor under the Act or, if the payment of money or property is not involved, shall withhold the performance of the condition that constitutes the consideration for the sale or transfer. Within 60 days after the issuance of the initial order to withhold, the Department shall provide written notice to the purchaser or transferee of the actual amount of all taxes, penalties and interest then due and whether or not additional amounts may become due as a result of unfilled returns, pending assessments and audits not completed. The purchaser or transferee shall continue to withhold the amount directed to be withheld by the initial order or to withhold the performance of the condition which constitutes the consideration for the sale or transfer until the purchaser or transferee receives from the Department a certificate showing that such tax, penalty and interest have been paid or a certificate from the Department showing that no tax, penalty or interest is due from the seller or transferor under the Act.

c) The purchaser or transferee is relieved of any duty to continue to withhold from the purchase price and of any liability for tax, penalty or interest due under the Act from the seller or transferor if the Department fails to notify the purchaser or transferee in the manner provided in this Section herein of the amount to be withheld or within 10 days after the sale or transfer has been reported to the Department or within 60 days after issuance of the initial order to withhold as the case may be. The Department shall have the right to determine amounts claimed on an estimated basis to allow for non-filed periods, pending assessments and audits not completed. However, the purchaser or transferee shall be personally liable only for the actual

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amount due when determined.

- d) If the seller or transferor fails to pay the tax, penalty and interest (if any) due from him under the Act and the Department makes timely claim therefor against the purchaser or transferee as ~~hereinafter~~ provided in subsection (b), then the purchaser or transferee shall pay the amount so withheld from the purchase price to the Department. If the purchaser or transferee fails to comply with the requirements of this Section under the Act, the purchaser or transferee shall be personally liable to the Department for the amount owed under the Act by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee.
- e) Any person who shall acquire any property or rights thereto which, at the time of such acquisition, is subject to a valid lien in favor of the Department shall be personally liable to the Department for a sum equal to the amount of taxes secured by such lien but not to exceed the reasonable value of such property acquired by him.
- f) Examples of situations where bulk sales reporting is required:

- 1) When a store selling clothing and shoes sells the clothing inventory of the business to another entity, bulk sales reporting is required.
- 2) When a company sells its business on a contract for deed basis, bulk sales reporting is required when the contract is entered into.
- 3) Examples of situations where bulk sales reporting is not required:
 - 1) When a corporation is merged into another corporation pursuant to the Business Corporation Act, there are no bulk sales reporting requirements because the surviving corporation retains all of the liabilities of the merged corporation.
 - 2) When one or more corporations are consolidated into a new corporation pursuant to the Illinois Business Corporation Act, there are no bulk sales reporting requirements because the new corporation retains all of the liabilities of the consolidated corporations.
 - 3) A repossession of equipment and inventory by a lender upon default by a borrower does not constitute a transfer within the meaning of the Bulk Sales provisions of the Act. For example, when a company is in default on a loan for business furniture and fixtures and the holder of the security interest forecloses and enters the business to repossess the furniture and fixtures, bulk sales reporting is not required.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART R: POWER OF ATTORNEY

Section 130.1801 When Powers of Attorney May be Given

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In certain instances, persons liable for tax under the Retailers' Occupation Tax Act desire, for convenience, to have other persons make the returns, pay the tax, request private letter rulings, and perform any and all other duties required of them under the Act. In all cases, where the revenues of the State will not be jeopardized, the Department will permit taxpayers, by properly executed and acknowledged powers of attorney, to appoint other persons to act as their attorneys for the purpose of filing returns and of performing other acts under the Retailers' Occupation Tax Act. (Also see Practice and Procedure for Hearings Before the Illinois Department of Revenue, 86 Ill. Adm. Code 200.110(C)(3) and Public Information, Rulemaking and Organization, 2 Ill. Adm. Code 1200.110(b)(8).)

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART S: SPECIFIC APPLICATIONS

Section 130.1901 Addition Agents to Plating Baths

- a) Various chemical compounds and addition agents are added to plating baths in order to improve the finished product, make the process more economical, make the process faster, improve anode corrosion, lower the surface tension, aid in maintaining constant pH, sequester impurities, remove impurities, or, in fact, make the process operative.
- b) These addition agents are divided into two main types: ~~the sales-of the first-of-which-are-exempt-from-the-tax-and-each-of-the-second-of-which-is-taxable~~ Sales, to manufacturers, of Type 1 agents are exempt. Sales, to manufacturers, of Type 2 agents are taxable.
- c) Type 1 (Exempt): Products which are added for the purpose of actually modifying the deposit by changing some characteristic such as brightness, smoothness, grain size, hardness, ductility or tensile strength. These products function in whole or in part by codeposition or adsorption into the deposit.
- d) To qualify as a Type 1 product, a compound must meet the following two requirements:
 - 1) The addition agent must be purchased to modify, and must modify, the end product by improving some desirable physical characteristic of the deposit, such as brightness, grain size, hardness, ductility, smoothness or tensile strength; and
 - 2) A measurable part of the product must become a part of the end product as established by:
 - A) Chemical or physical analysis indicating some degree of codeposition or adsorption in the plated deposit; or
 - B) Addition to the baths in proportion to ampere hours passed through the plating solution.
- e) Even if products do not meet all of the criteria set forth in subsections (d)(1) and (2) of this Section, sales of Type 1 products

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that are incorporated into the end product may nonetheless qualify as sales for resale (see Section 130.1405 of this Part for the documentation required to claim resale). If such products do not qualify as sales for resale, such products may also qualify for exemption as Manufacturing Machinery and Equipment (see Section 130.130 of this Part).

f) Type II (Taxable): Products which are added to the bath for purposes other than those of Type I compounds. In this category are those products of which the primary function is to improve the plating process by altering the surface tension, suppressing fumes, controlling pH, buffering the solution, acting as a catalyst, acting as a purifier, improving anode efficiency, or acting as a complexing agent.

g) The following test shall be conducted by either a disinterested laboratory or a State of Illinois monitored plating industry laboratory to determine whether or not a product, or an identifiable part thereof, fulfills the following two requirements and, therefore, qualifies as a Type I product:

1) Prepare a plating solution in a plating test cell without the addition agent in question. Plate a panel. Repeat after adding each of the additional agents, or components comprising a Type I product in the order recommended by the manufacturer. Repeat again after several different number of ampere hours. Make a second addition of each addition agent or component comprising the alleged Type I product to the test cell and run respective final panels. In those cases where an addition agent system is comprised of more than one product to be used in conjunction, a separate test shall be run on each product.

2) If the brightness or some other physical property is improved after the initial respective charges of addition agents or components comprising the alleged Type I product then tends to approach the original condition after the passage of several ampere hours of current and finally is charged again by second respective charges of addition agents or components comprising the product, it can be assumed that the respective addition agents or components comprising the product are being consumed on an ampere hour basis and are being codeposited.

h) Caution: For reasons of convenience and economics, products of Type I and Type II are often combined; the burden is on the taxpayer to show that a particular component qualified as a Type I product and is, therefore, exempt.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles

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a) When Tax Applies

Sales of antiques, curios, art work, collectors' coins, collectors' postage stamps and like articles to art collectors, philatelists, numismatists or other persons who purchase such items of tangible personal property for use and not for resale are within the Retailers' Occupation Tax Act. persons engaged in the business of selling these items of tangible personal property to purchasers for use or consumption are required to remit Retailers' Occupation Tax to the Department on their gross receipts from such sales.

b) Special Provisions Concerning Stamps

1) Sales of canceled domestic or foreign postage stamps, or of uncanceled foreign postage stamps, which are not valid for the transportation of mail in the United States, constitute sales within the Act, and persons engaged in the business of selling such stamps to purchasers for use or consumption are liable for the Retailers' Occupation Tax.

2) Effective June 1, 1965, the same is true of postage stamps which are valid for the transportation of mail if such postage stamps are sold for an amount which exceeds the face value of the stamp by at least 50% of such face value, in which case they will be presumed to have value as a collectors' postage stamp and will be subject to Retailers' Occupation Tax on the full sales price.

3) Sales of United States uncanceled postage or revenue stamps which are valid for the transportation of mail or for revenue tax purposes, and which are sold for an amount that does not exceed the face value of the stamp by at least 50% of such face value, are not subject to the Retailers' Occupation Tax.

c) Special Provisions Concerning Coins

Gross receipts from the sales of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion are exempt from Retailers' Occupation Tax.

d) Special Provisions Concerning Art Work

The sale of art work, even on a commissioned basis, is a transfer of tangible personal property subject to the Retailers' Occupation Tax. In order for the sale of art work not to be subject to Retailers' Occupation Tax, it must be of no commercial value to anyone other than the purchaser. An example of this type of art work might be a commissioned portrait of the purchaser. (For information regarding taxation of such art work, see the regulations for the Service Occupation Tax at 86 Ill. Adm. Code 140.)

e) Special Provisions Concerning Comic Books

1) Comic books that are published and sold as current serial publications are exempt from Retailers' Occupation Tax as newspaper and ink. (For information regarding the Newspaper and Ink Exemption from sales tax see 86 Ill. Adm. Code 130.2105.)

2) Comic books sold as collectors' items rather than as newspaper

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and ink are subject to Retailers' Occupation Tax. For example, old comic books sold at conventions that are not current serial publications are subject to tax.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.1915 Auctioneers and Agents

a) When Persons Act As Agent

1) Every auctioneer or agent, acting for an unknown or undisclosed principal, or entrusted with the possession of any bill of lading, custom house permit or warehouseman's receipt for delivery of any tangible personal property, or entrusted with the possession of any such personal property for the purpose of sale, is deemed to be the owner thereof, and upon the sale of such property to a purchaser for use or consumption, he is required to file a return of the receipts from the sale and to pay to the Department a tax measured by such receipts.

2) The receipts from any such sale, when made by an auctioneer or agent who is acting for a known or disclosed principal, are taxable to the principal, provided the principal is engaged in the business of selling such tangible personal property at retail. For a sale to qualify under this subsection(a)(2), the principal must be clearly disclosed to the purchasers by the auctioneer or agent so that the purchasers are able to determine who owns the goods that are being sold.

3) The same rule applies to lienors such as storagemen and pawnbrokers.

b) When Principal is Disclosed

For the purposes of this Section, a principal is deemed to be disclosed to a purchaser for use or consumption only when the name and address of such principal is made known to such purchaser at or before the time of the sale and when the name and address of the principal appears upon the books and records of the auctioneer or agent. A verbal announcement of the principals' names at the auction is not sufficient to document disclosure. Acceptable evidence of disclosure includes:

- 1) naming the principals and their addresses (city only is sufficient) in newspapers and other public advertising;
- 2) posting a written list of the principals' names and their addresses (city only is sufficient) at the auction site;
- 3) distributing sale bills or brochures that name the principals and their addresses (city only is sufficient);
- 4) recording the principals' names and their addresses (city only is sufficient) on legal documents regarding the item that is sold, such as automobile titles; or
- 5) other methods that provide a permanent, written record of the

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disclosure of the names and addresses (city only is sufficient) of the principals.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.1925 Blacksmiths

a) When Liable for For Retailers' Occupation Tax

When blacksmiths engage in the business of selling or of fabricating and selling horseshoes or other items of tangible personal property to purchasers for use or consumption, they incur Retailers' Occupation Tax liability.

b) When Not Liable for For Retailers' Occupation Tax
A blacksmith does not incur Retailers' Occupation Tax liability when ~~sharpening---pilot---shares---for---a---customer---or---when repairing his~~ customer's tangible personal property even if the such repairing work involves the transferring and adding of repair parts and materials to the such customer's property. See Section 130.2015 of this Part.

c) Cross Reference to Service Occupation Tax Regulations
However, when the blacksmith purchases repair parts and other tangible personal property which he retransfers to users as an incident to his sales of service, the transaction is governed by the blacksmith-incurs Service Occupation Tax Act. For information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140) liability-on-his-cost-price-of-such-tangible-personal-property-(see-Subpart-A-of-the-Service-Occupation-Tax-Regulations-(86 Ill.-Adm-Code-140)).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.1930 Chiroprodists, Osteopaths and Chiropractors

a) When Liable for For Tax

When chiroprodists, osteopaths or chiropractors sell such items as shoes, arch supports, trusses, braces, appliances or other tangible personal property to purchasers for use or consumption apart from their rendering of service as chiroprodists, osteopaths or chiropractors, they incur Retailers' Occupation Tax liability. For information about whether these items qualify as medical appliances, see Food, Drugs, Medicines and Medical Appliances, 86 Ill. Adm. Code 130.130.

b) When Not Liable for For Tax

Chiroprodists, osteopaths and chiropractors are engaged in professions and primarily render service. To the extent to which they engage in such professions, they are not engaged in the business of selling

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tangible personal property to purchasers for use or consumption within the meaning of the Act. Consequently, they are not required to remit Retailers' Occupation Tax measured by their receipts from engaging in such professions, including receipts from both services and tangible personal property transferred incident to those services.

c) Liability Under the Service Occupation Tax Act

For information concerning the application of the Service Occupation Tax to sales **purchases** by chiropractors, osteopaths and chiropractors of tangible personal property which they transfer **retransfer** as an incident to rendering service, see the Service Occupation Tax, 86 Ill. Adm. Code 140.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.1935 Computer Software

a) Computer software means all types of software including operational, application, utilities, compilers, templates, shells and all other forms. Canned software is considered to be tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. The sale at retail, or transfer, of canned software intended for general or repeated use is taxable, including the sale by a retailer of software which is subject to manufacturer licenses restricting the use or reproduction of the software.

1) A license of software is not a taxable retail sale if:

- A) it is evidenced by a written agreement signed by the licensor and the customer;
- B) it restricts the customer's duplication and use of the software;
- C) it prohibits the customer from licensing, sublicensing or transferring the software to a third party (except to a related party) without the permission and continued control of the licensor;
- D) the licensor has a policy of **vendor-with-provide** providing another copy at minimal or no charge if the customer loses or damages the software, or of permitting the licensee to make and keep an archival copy, and such policy is either stated in the license agreement, supported by the licensor's books and records, or supported by a notarized statement made under penalties of perjury by the licensor; and
- E) the customer must destroy or return all copies of the software to the licensor **vendor** at the end of the license period. This provision is deemed to be met, in the case of a perpetual license, without being set forth in the license agreement.

EXAMPLE: A retailer of computer software and related

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products sells or transfers a shrink-wrapped software program to a customer. A "license agreement" contained on or in the package, which by its terms becomes effective upon opening of the package, states that the customer does not receive title to the program and that the customer may not copy the program except to make a backup or archival copy while he owns the program. The license agreement is not evidenced by a written agreement signed by the customer. The license does not prohibit the customer from selling the program to a third party. If the customer loses or damages the program, the vendor will not replace it free or for a minimal charge. Since it fails to meet all the requirements for treatment as an exempt licensee, the transfer from the vendor to the customer is a taxable retail sale of software.

- 2) Value-added resellers who acquire software for relicensing or transfer to consumers after modification or adaptation of the software may require the software as a sale for resale by presenting their suppliers with valid certificates (see Section 130.1410 of this Part).

b) Tax applies to the entire charge made to the customer, including charges for all associated documentation and materials. Charges for updates of canned software are considered to be sales of software. Charges for training, telephone assistance, installation and consultation are exempt if they are separately stated from the selling price of canned software. Maintenance agreements for software will be treated in the same manner as other maintenance agreements. Sellers of maintenance agreements must pay tax on their cost price of the materials transferred incident to the completion of a maintenance agreement.

c) Custom Computer Programs

1) Custom computer programs prepared to the special order of the customer are not subject to tax under the Retailers' Occupation Use Tax, Service Occupation or Service Use Tax. To be considered exempt software, the following elements must be present:

- A) Preparation or selection of the program for the customer's use requires an analysis of the customer's requirements by the vendor; and
 - B) The program requires adaptation by the vendor to be used in a specific work environment, e.g., a particular make and model of a computer using a specified input or output device.
- 2) Custom computer programs do not include "canned" or prewritten computer programs held for general or repeated sale or lease. Modification of an existing prewritten program to meet the customer's needs is custom software. If modified software is held for general or repeated sale or lease, it is canned software. Custom software means the software which results from real and substantial changes to the operational coding of canned

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or pre-written software in order to meet the specific individualized requirements of the purchaser for his limited or particular use.

EXAMPLE: Canned software is purchased with a resale certificate by a programmer who modifies it to meet a customer's specific needs. The transfer to the customer is exempt from tax. If that program, as modified, is sold to other customers without further modification, it is taxable canned software, as are copies or repeat orders of such modified software.

- 3) The selection of pre-written or canned programs or program modules assembled by the vendor into a software package does not constitute custom software unless real and substantial changes are made to the programs or creation of program interfacing logic. If the pre-written program or module was previously marketed, the new program will qualify as a custom program if the price of the pre-written program was 50% or less of the price of the new program. If the pre-written program was not previously marketed, the new program will qualify as a custom program if the charge made to the customer for custom programming services, as evidenced by the records of the seller, was more than 50% of the contract price to the consumer.

- d) All software used to operate exempt manufacturing machinery and equipment (see 86 Ill. Adm. Code 130.330) is exempt.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART 5--SPECIFIC APPLICATIONS

Section 130.1940 Construction Contractors and Real Estate Developers

a) Definitions

- 1) "Construction Contractor." The word "construction contractor" when used in this Subpart herein includes general contractor, subcontractor and specialized contractor such as a landscape contractor. "Contractor" means any person who is engaged in the occupation of entering into and performing construction contracts for owners.
- 2) "Owner" means any person who enters into a contract with a contractor relative to the construction of a structure.
- 3) "Construct" means build, erect, construct, reconstruct, install, plant, repair, renovate or remodel.
- 4) "Structure" includes any building, house, edifice, tunnel, sewer, highway, road, bridge or any other type of structure, or any part thereof (including any system of plumbing, heating, ventilating, refrigerating, air conditioning, or any part thereof), or any other improvement to real estate.
- 5) "Materials" means all of the tangible personal property,

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including fixtures, which enter into a structure or otherwise become incorporated into real estate.

- 6) "Construction Contract" means a contract, written or oral, to "construct" (as that term is defined in subsection (a)(3) above), a "structure" (as that term is defined in subsection (a)(4), above) or to otherwise incorporate tangible personal property into real estate.

- 7) "Real Estate Developer" means any person engaged in the business of transferring title (legal or equitable) to real estate to others. The term does not include an isolated or occasional sale of real estate by a person not engaged in the business of selling real estate, and the term does not include a person who acts merely as agent for a commission to bring sellers and buyers of real estate together without ever actually taking either the legal or the equitable title to the real estate.

- b) Construction Contractors -- When Liable For Tax

- 1) Construction contractors incur Retailers' Occupation Tax liability when they engage in selling any kind of tangible personal property without installation to purchasers for use or consumption.

- 2) A construction contractor incurs Retailers' Occupation Tax liability when he sells furniture and furnishings, curtains, drapes, floor covering (except when he cements or otherwise permanently affixes the floor covering to a portion of the building), trade fixtures and machinery (unless in the case of machinery, Section 130.2115(b) of this Part applies) to purchasers for use or consumption, with or without installation by the seller, whether or not the seller furnishes and installs such items as a part of a construction contract. The same is true where he purchases and sells in finished form gas or electric stoves, refrigerators, washing machines, portable ventilating units and other portable equipment of this kind, which may be connected to and operated from a building's electrical, plumbing or other specialized system, but which is not actually a part of any such system and is considered to remain personal property when installed, even if the contractor does install such equipment pursuant to a construction contract.

- 3) For information concerning the seller's taxability on receipts from installation charges where the seller is taxable notwithstanding his installation of the item, see Section 130.450 of this Part.

- 4) If the seller is taxable notwithstanding installation, but the sale and installation are made by the seller pursuant to his performance of a construction contract, the seller's receipts from that part of the transaction which actually comprises the construction contract are not subject to the Retailers' Occupation Tax. In this situation, if a separate charge is made for the tangible personal property as to which the construction

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contractor is taxable, the value of such property for purposes of computing the Retailers' Occupation Tax is the amount charged for such property, but not less than the cost of such property to the construction contractor. If no separate charge is made in this situation for the tangible personal property as to which the construction contractor incurs Retailers' Occupation Tax liability, the value of such property for computing the Retailers' Occupation Tax is the cost of such property to the construction contractor.

- c) Construction Contractors -- When Not Liable For Tax
- A construction contractor does not incur Retailers' Occupation Tax liability as to receipts from labor furnished and tangible personal property (materials and fixtures) incorporated into a structure as an integral part thereof for an owner when furnished and installed as an incident of a construction contract. The construction contractor incurs Use Tax on the cost price of the tangible personal property that is incorporated into real estate. (See also Section 130.2075 of this Part.)

1) For example, a construction contractor does not incur Retailers' Occupation Tax liability on receipts from selling and installing screen doors and windows; storm doors and windows; weather stripping; insulation material; Venetian blinds; window shades; awnings; cabinets built into the structure; floor coverings cemented or otherwise permanently affixed to the structure by use of tacks, staples, or wood stripping filled with nails that protrude upward (sometimes referred to as "tacking strips" or "tack-down strips"), but not including floor coverings that are area rugs or that are attached to the structure using only two-sided tape; plumbing systems or parts thereof, such as bathtubs, lavatories, sinks, faucets, water pumps, water heaters, water softeners, water pipes, etc.; heating systems or parts thereof, such as furnaces, stokers, boilers, heating pipes, etc.; ventilation systems or parts thereof; commercial refrigeration systems or parts thereof; electrical systems or parts thereof; brick; lumber; sheet metal; roofing materials, and other similar items.

2) A landscape contractor does not incur Retailers' Occupation Tax liability as to receipts from labor furnished and tangible personal property incorporated into real estate as an integral part thereof for an owner when furnished and installed as an incident to a landscape contract. For example, a landscape contractor does not incur Retailers' Occupation Tax liability on receipts from selling and installing plants such as trees, shrubs, seedlings, sod and grass seed when planted in the ground, including fertilizer, mulch and soil incorporated into the ground, in connection with such planting (plants sold in pots or other containers without being planted in the ground by the landscape contractor are not deemed to be planted in the ground).

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3) Construction contractors who contract for the improvement of real estate consisting of engineering, installation, and maintenance of voice, data, video, security, and all telecommunication systems incur Use Tax, rather than Retailers' Occupation Tax, liability on those items if they are sold at one specified contract price. This provision applies to all of the items in this subsection (c)(3) even if they are not incorporated into real estate.

However, for information concerning the fact that a construction contractor is taxable on his cost price of the tangible personal property that he purchases and incorporates into real estate, see Section 130.2075 of this Part.

d) Real Estate Developers

1) A real estate developer does not incur Retailers' Occupation Tax liability on his receipts from selling real estate. However, for information concerning the fact that a real estate developer is taxable on his cost price of the tangible personal property that he purchases and incorporates into real estate, see Section 130.2075 of this Part.

2) A real estate developer incurs Retailers' Occupation Tax liability when transferring, to a user, tangible personal property which he purchases and sells in a finished form, and which remains personal property when installed, even though he includes the transfer of such tangible personal property in his sale of his contract to sell real estate. The value of such tangible personal property for computing Retailers' Occupation Tax is the amount charged for such tangible personal property by the transferor if a separate charge is made, but not less than the cost of such tangible personal property to the transferor. If no separate charge is made for such tangible personal property, the value of such property for computing Retailers' Occupation Tax is the cost of such property to the transferor.

e) Certain sales of building materials purchased for incorporation into real estate located in an enterprise zone are exempt from Retailers' Occupation Tax liability (see Section 130.1951 of this Part). Certain sales of building materials purchased for incorporation into real estate located in an area designated by the Department of Commerce and Community Affairs under Section 3.5 of the Illinois Enterprise Zone Act are exempt from Retailers' Occupation Tax liability (see Section 130.1952 of this Part).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.1960 Finance Companies and Other Lending Agencies -- Installment Contracts Bad Debts --- Repossessions

a) Lending Agencies -- When Liable For Tax

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Finance companies and other lending agencies are not relieved from liability for tax in cases in which they engage in the business of selling to users or consumers tangible personal property to which they hold or acquire title. Except as provided in subsection (b) of this Section, when a lending agency transfers title to a repossessed car to a user, the lending agency is engaging in the business of selling tangible personal property at retail and incurs Retailers' Occupation Tax liability on its receipts from such sales. It should be registered as a retailer under the Retailers' Occupation Tax Act and should file returns and otherwise comply with that Act.

b) Lending Agencies -- When Not Liable For Tax

1) Finance companies and other lending agencies are engaged primarily in the business of financing or acquiring the promissory notes given by purchasers of automobiles, furniture, refrigerators or other items of tangible personal property. To guarantee payment of such notes, they sometimes take as security chattel mortgages upon such tangible personal property. In cases where the purchaser of the automobile or other tangible personal property fails to meet his obligation, the lending agency repossesses the property and sells it to satisfy the obligation evidenced by the notes. In connection with such sales, the lending agency acts as agent for the owner of the repossessed property if such owner is known or disclosed to the purchaser, and if the lending agency does not take title to the property; the lending agency, under such circumstances, is not liable for payment of any Retailers' Occupation Tax with respect to the proceeds from such sales.

3) Even if the lending agency does title a repossessed motor vehicle in its name, if the original buyer, after the expiration of the redemption period provided for in the Retail Installment Sales Act [15 ILCS 405] (4111-Rev-Stat-1979-ch-22-1-27-par-591 et-seq-7), is granted permission to redeem and to resume possession of the vehicle and to continue performance under his original installment contract without any change in the terms of such contract, and the lending agency re-endorses the repossession title to such original buyer, the transaction is not regarded as a sale and so is not taxable.

c) Installment Sales

1) When a retailer of tangible personal property sells an installment contract or "paper" to a third party, the difference between the selling price of the tangible personal property and the selling price of the installment contract or "paper" is a cost of doing business and is therefore not deductible in computing Retailers' Occupation Tax liability. Retailers' Occupation Tax is measured by the total selling price of the tangible personal property purchased from the retailer for use or consumption. Upon sale of the installment contract or "paper" to a third party, Retailers' Occupation Tax becomes due based on the

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entire selling price to the purchaser of the tangible personal property, with credit allowed for any tax already remitted to the Department based on the receipts from the sale of the tangible personal property.

2) For purposes of this Section, "paper" means any instrument of indebtedness which was acquired by the retailer from the purchaser of the tangible personal property. Sales of "paper" to a third party includes the sale of accounts receivable as well as assignments or sales of the actual instruments of indebtedness themselves.

d) Bad Debts Repossessions

1) In case a retailer repossesses any tangible personal property and subsequently resells such property to a purchaser for use or consumption, his gross receipts from such sale of the repossessed tangible personal property are subject to Retailers' Occupation Tax. He is entitled to a bad debt repossession credit with respect to the original sale in which the default has occurred to the extent to which he has paid Retailers' Occupation Tax on a portion of the price which he does not collect, or which he is not permitted to retain because of being required to make a repayment thereof to a lending agency under a "with recourse" agreement. Retailers of tangible personal property other than motor vehicles, watercraft, trailers and aircraft that must be registered with an agency of this State may obtain this bad debt credit by taking a deduction on the returns which they file with the Department for the month in which the Federal income tax return or amended return on which the receivable is written off is filed, or by filing a claim for credit as provided in subsection (d)(3) of this Section. Because retailers of motor vehicles, watercraft, trailers, and aircraft do not pay Retailers' Occupation Tax to the Department on retail sales of motor vehicles, watercraft, trailers, and aircraft with monthly returns, but remit the tax to the Department on a transaction by transaction basis, they are unable to take a deduction on the returns that they file with the Department, but may ~~not~~ file a claim for credit with the Department, as provided in subsection (d)(3), on any transaction with respect to which they desire to receive the benefit of the repossession credit.

2) Retailers who incur bad debt on any tangible personal property that is not repossessed may also obtain bad debt credit as provided in subsections (d)(1) and (3).

3) In the case of tax paid on an account receivable that becomes a bad debt, the tax paid becomes a tax paid in error, for which a claim for credit may be filed in accordance with Section 6 of the Retailers' Occupation Tax Act, on the date that the Federal income tax return or amended return on which the receivable is written off is filed.

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.1365 Florists and Nurserymen

- a) Florists -- When Liable For Tax
Florists are engaged in the business of selling tangible personal property at retail and are liable for payment of the Retailers' Occupation Tax measured by receipts from sales of flowers, wreaths, bouquets, potted plants and other such items of tangible personal property to purchasers for use or consumption. This is true even though such items are made by the florist on special order.
- b) Transactions Involving Florist Delivery Associations **Telegraphic Instructions**
Where florists conduct transactions through a florists' telegraphic delivery association, the following rules will apply in the computation of tax liability:

- 1) On all retail orders taken by an Illinois florist and transmitted **teletyped** to a second florist in Illinois for delivery in this State, the sending florist will be held liable for Retailers' Occupation Tax with respect to the total amount which he collects from his customers, except for the cost of the **telegram** or **the--telephone** message conveying delivery instructions where this item is charged for separately from the selling price of the flowers.

- 2) Where an Illinois florist receives an order pursuant to which he gives **telegraphic** instructions to a second florist located outside Illinois for delivery of flowers to a point outside Illinois, tax will likewise be owing with respect to the receipts of the Illinois **sending** florist from the customer who placed the order. (Effective July 1, 1971:--)

- 3) Where Illinois florists receive **telegraphic** instructions from other florists located either within or outside of Illinois for the delivery of flowers, the receiving florist will not be held liable for tax with respect to any receipts which he may realize from the transaction. In this instance, if the order originated in Illinois, the tax will be due from and payable by the Illinois florist who first received the order and transmitted **gave telegraphic** instructions to the second florist.

c) Nurserymen

- 1) Where a nurseryman, landscape contractor or florist sells shrubbery, young trees and similar items to purchasers for use or consumption, and does not, as part of the transaction, plant the items in the ground, the entire receipts from the transaction are subject to Retailers' Occupation Tax.

- 2) However, where the items are transplanted by the seller in the land of the purchaser, the transaction is not subject to Retailers' Occupation Tax liability. In this situation, the

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seller functions as a construction contractor and incurs a Use Tax liability on his cost price of the items affixed to the purchaser's real estate.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.1371 Sellers of Pets and the Like

- a) Sellers of Pets and the Like, Including Horses, Fish, Birds, and Insects -- When Liable For Tax
When persons who are in the business of selling pets, animals, horses, fish, birds, insects and the like sell those items (whether alive or not) to purchasers for use or consumption, those persons are engaged in the business of selling tangible personal property to purchasers for use or consumption and are required to remit Retailers' Occupation Tax to the Department on their gross receipts from sales. Examples of such use or consumption include, but are not limited to, use as pets, for racing, for show, for medical experimentation, and for bait or use as food for other animals or fish. Examples of such sellers are pet stores that sell dogs, cats, snakes, hamsters, lizards, rabbits, monkeys, and birds; and bait shops that sell minnows, crayfish, worms, crickets, and leeches.

- b) Sellers of Animals, Horses, Fish, Birds, Insects, and the Like -- When Not Liable For Tax

Sellers of breeding animals, horses, fish, birds, insects, and the like are not liable for Retailers' Occupation Tax with respect to the gross receipts received from such sales to purchasers for the purpose of breeding and sale of the offspring. (See Section 130.2100(d) of this Part.) The purchasers must be engaged in that type of business.

For example, when a person holds and sells the offspring as a breeder of dogs (i.e., he breeds dogs and sells the offspring), he is considered to be engaging in this particular type of business. These types of sales are not subject to Retailers' Occupation Tax because they are considered sales for resale. (See Sections 130.1401 and 130.1405 of this Part.)

- c) Beginning May 30, 1995, sellers of horses that make sales of horses that are registered with and meet the requirements of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, and that are used for purposes of breeding or racing for prizes, do not incur Retailers' Occupation Tax liability on those sales.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 130.1375 Operators of Games of Chance and Their Suppliers

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- a) Operators Of Games Of Chance
Persons who engage in conducting raffles or other games of chance are not engaged in the business of selling tangible personal property at retail to the extent of such activities and are not required to remit Retailers' Occupation Tax measured by their receipts from the operation of such games of chance. These cases must be distinguished from those in which vending machines are used for selling tangible personal property at retail (see Section 130.2135 of this Part).
- b) Suppliers Of Operators Of Games Of Chance
Persons who engage in selling tangible personal property to operators of raffles, punch boards, mechanical gambling devices and other games of chance, for disposition to players in the course of the operation of such games of chance, are engaged in the business of selling tangible personal property at retail and incur Retailers' Occupation Tax liability when making such sales. The same is true of persons who engage in selling gambling devices themselves (such as punch boards, slot machines, wheels, paddles and other gambling devices) to operators of games of chance for use in the conduct of such games or gambling enterprises.
- c) Other Gaming Acts Effective-Date
For information on bingo, see Part 430 of this Title, the Bingo License and Tax Act, for information on pull tabs and jar games, see Part 432 of this Title, the Pull Tabs and Jar Games Act, for information on charitable games, see 86 Ill. Adm. Code 435, the Charitable Games Act, and for information on coin-in-the-slot-operated amusement devices and redemption machines, see 86 Ill. Adm. Code 460. Coin-Operated Amusement Device Tax. This Section is effective June--31 1967.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.1980 Optometrists and Opticians

- a) Optometrists and Oculists -- When Liable For Tax
When optometrists sell tangible personal property to purchasers for use or consumption apart from their rendering of service as optometrists, they incur Retailers' Occupation Tax liability. This is the case, for example, where optometrists sell spectacles, frames or mountings, without examination or treatment of the eyes, to purchasers for use or consumption, or where optometrists sell such items as sun glasses, cleaning solutions for lenses, barometers, telescopes, field glasses, opera glasses or other tangible personal property to purchasers for use or consumption apart from their rendering of service. [For information about whether these items qualify as medical appliances, see Food, Drugs, Medicines and Medical Appliances, Section 130.310 of this Part.]
- b) Optometrists -- When Not Liable For Tax

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Optometrists are engaged in professions and primarily render service. To the extent to which they engage in such professions, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Act. Consequently, they are not required to remit Retailers' Occupation Tax measured by their receipts from engaging in such professions, including receipts from both services and tangible personal property transferred incident to those services.

- c) Opticians
1) When opticians sell such tangible personal property as lenses which they produce in accordance with the prescriptions of licensed optometrists, the opticians are engaged primarily in a service occupation and do not incur Retailers' Occupation Tax liability on their receipts from such sales. [For information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140).] However, they incur Service Occupation Tax liability on their cost-price of the tangible personal property which they purchase and resell--as an incident to service--(see Subpart A of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140)).
- 2) An optician would incur Retailers' Occupation Tax liability if he should engage in selling any tangible personal property at retail apart from engaging in a service occupation (e.g., selling eyeglass cases or lens cleaning solutions over the counter).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers

- a) Classification of Businesses
Falling into the classification of persons engaged in the graphic arts or related occupations are printers, book binders, typographers, portrait or commercial photographers, commercial artists, lithographers, sign painters, photostaters and blueprinters. This list is illustrative, but not exhaustive. Persons falling under this Part may or may not qualify for the graphic arts machinery and equipment exemption set forth in Section 130.325.

- b) Persons Engaged in the Graphic Arts -- When Liable For Tax
1) Persons engaged in the graphic arts or related occupations may, under certain circumstances, be considered to be engaged in the business of selling tangible personal property to purchasers for use or consumption, in which event they incur Retailers' Occupation Tax liability. This is the case, for example, when they sell to purchasers for use or consumption tangible personal property which is standard enough to be stocked for sale or

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offered for sale from catalogues or other sales literature, or which otherwise is sold at retail apart from the seller's engaging in a service occupation. Illustrations would include legal forms, stock of standard greeting cards, pictures or other items which are stocked for sale or offered for sale to the public generally, or products of photoprocessing.

- 2) Effective August 1, 1961, a person who is engaged in the graphic arts also incurs Retailers' Occupation Tax liability on his receipts from sales, to users, of items which he produces on special order if such item serves substantially the same function as stock or standard items of tangible personal property that are sold at retail. Items which "serve substantially the same function" are those which, when produced on special order, could be sold substantially as produced to someone other than the original purchaser at substantially the same price. A printed item that is personalized is always considered to be printed on special order.

- 3) Effective September 1, 1968, photographers, film makers, and other servicemen, are subject to Retailers' Occupation Tax on the photoprocessing component of their total service charge when they sell products of photoprocessing. The tax on the photoprocessing component will apply regardless of whether the photographer performs the photoprocessing in-house, or engages a third-party photoprocessor. For purposes of the tax imposed on photographs, negatives and positives by this Section, photoprocessing includes, but is not limited to, developing films, positives and negatives, transparencies, tinting, coloring, making and enlarging prints. Photoprocessing does not include products of photoprocessing produced for use in motion pictures for public commercial exhibition, color separation, typesetting and platemaking by photographic means in the graphic arts industry and does not include any procedure, process or activity connected with the creation of the images on the film from which the negatives, positives or photographs are derived. The sale of digital photography is not a sale of products of photoprocessing. The charge for in-house photoprocessing may not be less than the photoprocessor's cost price of materials. In transactions in which products of photoprocessing are sold in conjunction with other services, if a charge for the photoprocessing component is not separately stated, tax is imposed on 50% of the entire selling price unless the sale is made by a professional photographer, in which case tax shall be imposed on 10% of the entire selling price. (Section 2 of the Act). The tax on photoprocessing may be paid when purchasing self-developing film, such as Polaroid, or film which includes photoprocessing charges in the purchase of the film.

- A) EXAMPLE: The professional photographer receives an assignment to shoot a specified layout from an advertising

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agency. The photographer selects the location, hires the models, arranges for the make-up, rents the equipment and shoots the scene. The photographer sends the undeveloped film to an outside photoprocessing laboratory for development. The photographer's bill for the sale of the photograph includes a charge for his artistic and other services and a separately-stated charge for the photoprocessing component which is either the charge made to him by the photoprocessing laboratory or such an amount plus his customary mark-up. The tax should only be applied to the photoprocessing component.

- B) EXAMPLE: The same facts as above except the professional photographer does not separately state a charge for the photoprocessing component and bills his client a lump sum. A tax is collected on 10% of the lump sum price.

- C) EXAMPLE: A portrait photographer photographs a family in his studio and develops the film in-house. The photographer's bill includes a sitting fee and a separately-stated charge for the product of photoprocessing. A tax is collected on the photoprocessing charge only.

- D) EXAMPLE: A photographer develops exposed film and transfers negatives and prints to a consumer. Tax is collected on the entire bill.

- E) EXAMPLE: An advertising agency prepares advertising brochures for a customer using images provided by the customer on film, which the advertising agency develops, enlarges, and prints. The photoprocessing component is not separately stated on the bill. Tax is based upon 50% of the bill.

- c) Persons Engaged in the Graphic Arts -- When Not Liable For Tax

- 1) A photostater who is employed to reproduce material for his customer by the photostating process, or a printer who is employed to print material for his customer in accordance with copy supplied to the printer by the customer or otherwise in accordance with the customer's specifications and special order, or a person who otherwise engages primarily in the transaction in furnishing graphic arts' services is not engaged in such transaction in the business of selling tangible personal property within the meaning of the Act, if the item so produced does not serve substantially the same function as stock or standard items of tangible personal property that are sold at retail, but is engaged in such transaction primarily in a service occupation. For example, a printer that is hired by a customer to print personalized wedding invitations or greeting cards is engaged in the transaction as a serviceman.

- 2) To the extent to which any such person engages in a service occupation, he is not liable for Retailers' Occupation Tax on his receipts therefrom, including receipts from both labor and

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tangible personal property. (For further illustrations, see Section 130.1995(b) of this Part.)

- 3) If the tax exemption described in this Section would otherwise apply, the person supplying the printed item or other item that is produced through the graphic arts' processes to the user will not lose that exemption because of the fact that he farms the work of producing the item out to someone else.

- d) Suppliers of Persons Engaged in the Graphic Arts -- When Liable For Tax

- 1) When persons who are engaged in the business of selling tangible personal property sell any such tangible personal property, for use or consumption, to persons engaged in the graphic arts or related occupations, such vendors incur Retailers' Occupation Tax liability unless such purchases qualify for the graphic arts Manufacturing Machinery and Equipment Exemption (see Section 130.325). This class of sales includes, but is not limited to, sales of machinery, tools, equipment, office supplies and other tangible personal property which the purchasers retain and use or consume. This class of sales also includes sales of plates, film, pre-sensitized plates, alcohol, chemicals, etc., which are consumed by those engaged in the graphic arts or related occupations in the course of the performance of their work.

- 2) It is not material whether the plates, film, pre-sensitized plates, alcohol, chemicals, etc., are consumed in the course of producing, by the graphic arts' processes, items which have a commercial value, or whether the plates, film, pre-sensitized plates, alcohol, chemicals, etc., are consumed in producing, on special order, items of noncommercial value.

- 3) Likewise, this class of sales includes sales of film to photographers who use such film in producing negatives which remain the property of such photographers.

- 4) Furthermore, this class of sales includes sales of paper stock, ink, duplicating materials (stencil sheet masters, offset masters and spirit masters) and other tangible personal property to printers and other graphic arts' servicemen who incorporate such tangible personal property as ingredients into items which remain the property of such servicemen instead of being resold by them in some manner.

- e) Suppliers of Persons Engaged in the Graphic Arts -- When Not Liable For Tax

- 1) Persons who sell tangible personal property to persons who are engaged in the graphic arts or related occupations and who resell such property to others are not required to remit Retailers' Occupation Tax measured by their gross receipts from such sales. This class of sales includes sales of ink, paper stock, chemicals, developing paper, sensitized paper, bookbindings, metal, wood, glue, brads, staples, binding tape and other

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tangible personal property where such property is purchased by persons engaged in the graphic arts or related occupations and incorporated by them into printed matter, pictures or other tangible personal property which they sell.

- 2) It is not material whether the ink, paper, developing paper and other similar items are resold as ingredients of articles which have a commercial value or whether the ink, paper stock, developing paper and other similar items are resold as ingredients of articles which are produced on special order and which have no commercial value.

- f) Liability Under the Service Occupation Tax
For information concerning the application of the Service Occupation Tax to purchases, by graphic arts' servicemen, of tangible personal property which they retransfer as an incident to rendering service, see the Service Occupation Tax, 86 Ill. Adm. Code 140.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons

- a) Sales by Nonprofit Service Organizations

Effective August 1, 1961, nonprofit country clubs, boat clubs, employees' clubs or organizations and other nonprofit social, athletic or recreational organizations, lodges, patriotic organizations, fraternities, sororities, professional and trade associations, civic organizations, labor unions and other nonprofit persons who are not exclusively charitable, religious or educational organizations are liable for Retailers' Occupation Tax when selling tangible personal property at retail to members, guests or others. The same is true of exclusively charitable, religious or educational organizations and institutions with certain limited exceptions.

- 1) Scope of the Exemption

A) There still are some very limited exemptions from the Retailers' Occupation Tax for sales by exclusively charitable, religious and educational organizations and institutions. However, the exemption is not available unless the selling organization or institution does qualify as an "exclusively" charitable, religious or educational organization or institution.

B) It is not enough simply to be a nonprofit organization or institution. In case of doubt concerning any such seller's Retailers' Occupation Tax status, apply to the Department of Revenue for a letter ruling, submitting copies of the Charter or Constitution and By-laws and other relevant information for this purpose.

C) The exemption that is available under some circumstances

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for sales by exclusively charitable, religious or educational organizations or institutions is not available in any situation, for example, to sales by such other kinds of nonprofit organizations as civic clubs, nonprofit social and recreational organizations, patriotic organizations, lodges and their auxiliaries, trade associations, etc. Even though the latter types of organizations do much good charitable work, they are not "exclusively" charitable organizations under Illinois Supreme Court decisions, so any retail selling which they do would be subject to the Retailers' Occupation Tax.

D) Some of the kinds of organizations which qualify as exclusively charitable organizations are Parent-Teacher organizations, the American National Red Cross, Community Fund or United Fund organizations, the Y.M.C.A., the Y.W.C.A., Boy Scout organizations and Girl Scout organizations.

E) Exclusively charitable, religious and educational organizations incur Retailers' Occupation Tax liability when they engage in selling tangible personal property at retail except in three situations.

2) Sales to Members, Etc.

A) The first exception is that the sales by such an organization are not taxable if they are made to the organization's members, or to its students in the case of a school or to its patients in the case of a nonprofit hospital which qualifies as a charitable institution.

B) Examples of sales that come under this exemption are sales of uniforms, insinopia and Scouting equipment by Scout organizations to their members; sales of Bibles by a church to its members, and sales of choir robes by a church to the members of the church's choirs. The selling organization would incur Retailers' Occupation Tax liability if it should engage in selling any of the foregoing items at retail to the public.

C) The selling of school books and school supplies by schools at retail to students shall not be deemed to be "primarily for the purpose of" the school which does such selling. Consequently, schools incur Retailers' Occupation Tax liability when they engage in selling school books or school supplies at retail to their students or to others.

3) Noncompetitive Sales

A) The second exception is that sales by exclusively charitable, religious or educational organizations are not subject to the Retailers' Occupation Tax when it can be said that such selling is noncompetitive with business establishments.

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B) The Attorney General has laid down the following tests for determining that such selling is noncompetitive:

i) The transactions are conducted by members of the charitable entity and not by any franchisee or licensee.

ii) All of the proceeds must go to the charity.

iii) The transaction must not be a continuing one but rather should be held either annually or a reasonably small number of times within a year. The test of reasonableness would be an administrative decision, to be made by the Department of Revenue.

iv) The reasonably ascertainable dominant motive of most transferees of the items sold must be the making of a charitable contribution, with the transfer of property being merely incidental and secondary to the dominant purpose of making a gift to the charity.

C) In addition, the Attorney General has stated that there are these further considerations for the purpose of furnishing some guides to the resolution of questions raised by each individual situation:

i) The nature of the particular item sold. All other things being equal, the decision as to candy might well be different from the decision as to refrigerators.

ii) The character of the particular sale, and the real practical effect upon punitive competition.

D) Under this second exception, examples of exempt sales are infrequent sales of cookies, doughnuts, candy, calendars or Christmas trees by Scout organizations or by other exclusively charitable organizations or by exclusively religious organizations. In this category, the Attorney General's opinion stresses that the sale must be infrequent, and that the dominant motive of the purchase must be the making of a donation to the charitable or religious organization which conducts the sale, rather than the acquisition of property.

E) Even if the sale to the public occurs only once a year, the charitable or religious organization which conducts the sale would incur Retailers' Occupation Tax liability if it sells hats, greeting cards or other items for which the dominant motive of the purchase is the acquisition of the property rather than the exchanging of the property merely as a token for the making of a donation.

4) Occasional Dinners and Similar Activities

A) The third exception is that occasional dinners, socials or other similar activities which are conducted by exclusively charitable, religious or educational organizations or institutions are not taxable, whether or not such

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activities are open to the public. This exemption extends to occasional dinners, ice cream socials, fun fairs, carnivals, rummage sales, bazaars, bake sales and the like, when conducted by exclusively charitable, religious or educational organizations or institutions, whether the items that are sold are purchased or donated for the purposes of the sale, and even if the sale is open to the public.

- B) For the purposes of this exemption, "occasional" means more than twice in any calendar year. Where more than two events are held in any calendar year, the organization or institution may select which two events held within that year will be considered exempt. Once the organization or institution has made the selections, the selections cannot be changed. All other events in that year will be considered taxable.

- C) This exemption does not extend to "occasional" sales, by exclusively charitable, religious or educational organizations or institutions, of hats, greeting cards, cookbooks, flag kits and other similar items because these are not "occasional dinners, socials or similar activities" within the meaning of the Act, and the selling of these kinds of items at retail even on an occasional basis does generally place the selling organization in substantial competition with business establishments.

- b) Rules Governing Some Special Kinds of Selling by Exclusively Charitable and Religious Organizations

1) Hospital Sales

- A) Nonprofit hospitals which qualify as exclusively charitable institutions are not taxable when selling food or medicine to their patients in connection with the furnishing of hospital service to them, nor on the operation of restaurant facilities which are conducted primarily for the benefit of the hospital's employees, and which are not open to the public. However, sales made in a hospital cafeteria which is open to the public will be taxable sales.

- B) In the case of hospitals which qualify as charitable institutions, such hospitals are not taxable when selling drugs to anyone because this is for the relief of the sick (which is the hospital's primary purpose) and so is "primarily for the purpose of" such hospitals, thus qualifying such transactions for tax exemption. However, a hospital or hospital auxiliary incurs Retailers' Occupation Tax liability when selling candy, chewing gum, tobacco products, razor blades and the like at retail even when such items are sold only to patients because (unlike food and medicine) these items are not necessary to the furnishing of hospital service, and they are competitive.

- C) The same distinctions apply to nonprofit sanitarium and

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nonprofit nursing homes when they qualify as exclusively charitable institutions.

- 2) Gift Shops and Rummage Stores

Charitable or religious organizations incur Retailers' Occupation Tax liability on the retail selling which they do in the course of operating gift shops and rummage stores.

- 3) Meals

- A) Charitable or religious organizations incur Retailers' Occupation Tax liability on their receipts from sales of meals to the public unless such selling constitutes an occasional dinner or other similar activity, as authorized in subsection (a)(4)(B), above. No more than two such occasional dinners or other similar activities are authorized in any calendar year. Such sales are tax exempt, provided that all the profits from such sales are used for charitable or religious purposes. If such sales occur more than twice in any calendar year, refer to subsection (a)(4)(B), above.

- B) Also, a church or religious organization does not incur Retailers' Occupation Tax liability on its receipts from sales of meals where the following conditions are met:

- i) The profits, if any, are used for religious purposes;
- ii) the meals are confined to the members of such church and their guests and are not open to the public; and
- iii) the serving of the meals is connected with some religious service or function.

- C) Under the circumstances just described, even if this type of selling of meals is done rather frequently, it is exempt from the Retailers' Occupation Tax because of being in the category of sales to members "primarily for the purposes of" the religious organization (the seller).

- 4) Special Problems Concerning Sales by Schools

A) Dining Facilities

A school does not incur Retailers' Occupation Tax liability on its operation of a cafeteria or other dining facility which is conducted on the school's premises, and which confines its selling to the students and employees of the school. In any instance in which the dining facility is opened up for the use of other persons, all sales that are made at such facility while that condition continues to prevail are taxable.

B) Meaning of "Student"

For the purpose of the exemptions under discussion, a "student" is a person who is taking a course from the school for credit.

C) School Books and School Supplies

- i) A school incurs Retailers' Occupation Tax liability when selling school books and school supplies to its

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students or others, for use.

- ii) Schools are not taxable on their sales of school annuals because these are noncompetitive items.

D) Clothing and Dormitory Supplies

Schools incur Retailers' Occupation Tax liability when they sell sweaters, sweat shirts, gym shoes, jackets and other items of clothing to students or others for use. The same is true when a school sells furniture, rugs or other dormitory supplies to users.

E) Miscellaneous Items

A school or school organization incurs Retailers' Occupation Tax liability when it sells soft drinks, candy, peanuts, popcorn, chewing gum and the like to students or to members of the public for use or consumption, where these items are sold at a school book store, through vending machines or otherwise than in a restricted school cafeteria as a part of the selection which the student has in buying meals in such cafeteria. However, the proceeds from the sale of tangible personal property by teacher-sponsored student organizations affiliated with an elementary or secondary school located in Illinois are exempt from Retailers' Occupation Tax. (See Section 2-5(6) of the Act and 86 Ill. Adm. Code 130.2006.)

c) Registration and Returns

- 1) Nonprofit organizations which incur Retailers' Occupation Tax liability as retail sellers of tangible personal property are required to register with the Department and file periodic returns. Returns are due monthly, except that if the taxpayer's average monthly liability to the Department is \$50.00 or less, the taxpayer may apply to the Department for permission to file one return each year covering the calendar year, with the return being due by January 31 of the following year. Whenever tax is due for a return period, the remittance for the tax should accompany the return which discloses such tax to be due.

- 2) For more information concerning the filing of returns with the Department, see Subpart E of this Part.

- 3) Registration and return forms may be obtained from the Department on request.

- 4) In the case of a church, it is recommended that a single Certificate of Registration be applied for by the church and that this be allowed to cover the selling activities of that church and all of its organizations. Registration must be obtained prior to the commencement of selling activities. (See Section 2a of the Act.)

- 5) In the case of public schools or school organizations which incur some Retailers' Occupation Tax liability so as to be required to register with the Department of Revenue, the Board of Education which governs the school district (rather than each individual school or school organization) should apply to the Department for

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a Certificate of Registration, and such Board of Education should file a single return for the return period covering all the taxable school activities that occur under its jurisdiction during the return period covered by the return.

d) Suppliers of Nonprofit Institutions, Associations and Organizations

- 1) Suppliers of nonprofit institutions, associations and organizations do not incur Retailers' Occupation Tax liability when they sell tangible personal property to any such purchaser for resale in any form as tangible personal property.

- 2) Suppliers of such purchasers incur Retailers' Occupation Tax liability when they sell tangible personal property to any such purchaser at retail (i.e., for use or consumption by the purchaser or to be given away by the purchaser, and not for resale in any form as tangible personal property), provided that the tax does not apply to receipts received by the seller from sales of any kind made to any purchaser of this character who is able to qualify as a corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older.

- 3) Many difficult questions of interpretation will arise in applying the above proviso. Each case will have to be decided on its own facts, but a few principles based on Supreme Court decisions in somewhat analogous cases are stated hereinbelow for guidance.

e) Nonprofit Social, Recreational and Athletic Organizations — Nonprofit Fraternal Organizations

- 1) A purchaser is not necessarily qualified for this total exemption as to receipts received by the seller from all sales made to such purchaser merely because of the fact that the purchaser is a not-for-profit service organization. For example, if the purchaser is incorporated or otherwise organized primarily to provide entertainment, social, recreational or athletic activities or facilities to its members, the purchaser is not organized and operated exclusively for charitable, religious or educational purposes. Such a purchaser is not organized and operated exclusively for charitable purposes even though it does some charitable work. This is true even though such purchaser is organized and operated as a not-for-profit corporation, association, etc.

- 2) The same is true of nonprofit fraternal benefit societies which derive their funds from their members and are organized primarily to provide different forms of insurance benefits to their members and to persons standing in designated relationships to their members, except when such fraternal benefit societies are organized under a statutory provision which expressly declares

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them to be exclusively charitable organizations.

- 3) Non profit fraternities and sororities are not considered to be organized and operated exclusively for charitable, religious or educational purposes.

f) Lodges

- 1) Similarly, nonprofit corporations, societies, associations, etc., which have, as a substantial purpose, the providing of a lodge system with ritualistic work and social activities for members, and which divert their funds in large measure from such members, are not organized and operated exclusively for charitable, religious or educational purposes, even though they engage to some extent in one or more of these activities, because a substantial purpose for the existence of such an organization is one which does nothing to relieve the public of a duty to the persons benefited and otherwise bestows no benefit upon the public.

- 2) For example, the Supreme Court has held a Masonic Lodge not to be charitable and has held that a Masonic Home for aged and destitute Masons is charitable. The Department will follow that distinction in this Section when separate legal entities are involved, considering receipts from retail sales to the former to be taxable, and considering receipts received by the seller from retail sales made to the latter to be exempt. However, if the same legal entity operates the noncharitable lodge and the charitable home, the Department will not regard such entity (when making purchases) as coming within this exemption. This is true because the importance of the noncharitable lodge function makes it impossible to say that such a purchaser is organized and operated exclusively for charitable, religious or educational purposes.

- g) Nonprofit Professional and Trade Associations -- Civic Clubs -- Patriotic Organizations

Nonprofit Bar Associations, Medical Associations, Lions Clubs, Rotary Clubs, Chambers of Commerce and other Professional, trade or business associations and labor unions, which draw their funds largely from their own members, and as to which an important purpose is to protect and advance the interests of their members in the business world, are not organized and operated exclusively for charitable or educational purposes, even though such organizations may engage in some charitable and educational work. The same conclusion applies to the American Legion, Veterans of Foreign Wars, Avets, the Daughters of the American Revolution and other similar nonprofit patriotic organizations.

- h) Organization Must be Nonprofit to be Exclusively Charitable
- On the other hand, a purchaser cannot qualify as being organized and operated exclusively for charitable purposes unless it is organized and conducted on a not-for-profit basis, with no personal profit inuring to anyone as a result of the purchaser's operation. The

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payment of reasonable salaries to necessary employees for services actually rendered does not convert a nonprofit enterprise into a business enterprise.

- i) Other Conditions Necessary for Being Exclusively Charitable

- 1) In the case of a corporation, there can be no capital structure nor capital stock, no provision for disbursing dividends or other profits and no payment of director's fees if the corporation seeks to qualify as an exclusively charitable corporation.

- 2) The Supreme Court has stated that a charitable purpose may refer to almost anything which promotes the well-being of society and which is not forbidden by law; but to qualify as a charity, the purchaser must be organized and operated to benefit an indefinite number of the public. There may be restrictions on the group to be benefited (such as an organization for women, for children, for the aged, etc.), but the service rendered to those eligible for benefits must, nevertheless, in some way relieve the public of a duty which it would have to such beneficiaries or otherwise confer some benefit on the public.

- j) Determination of Purpose for Which Organization or Institution is "Organized and Operated"

- 1) In the case of a corporation, the purpose for which it is "organized" will be determined by reference to its Charter. For example, it has been held by the Supreme Court that an Elks Lodge, whose Charter stated it was incorporated for the mutual benefit and social intercourse of its members, was not "organized" exclusively for "charitable purposes", even though the corporation engaged in a considerable amount of charitable work.

- 2) In the case of an unincorporated society, association, etc., the Constitution and Bylaws thereof will determine the purpose for which it is organized.

- 3) To qualify for total exemption the purchaser must be organized "and operated" exclusively for charitable, religious or educational purposes.

- k) Examples of Exempt Buyers

- 1) Some examples of purchasers which come within this exemption are churches, Sunday Schools, Church Ladies' Aid Societies, Salvation Army and other nonprofit corporations, societies, associations, foundations and institutions organized and operated exclusively for religious purposes (but not including Ministers or other individuals when making purchases from their own funds); corporations, societies, associations, foundations and institutions organized and operated exclusively for educational purposes, whether such purchaser is organized and operated as a business enterprise or on a not-for-profit basis (but see subsection (l) below); homes for the aged which are not organized or operated as a business enterprise with a view to profit and which otherwise qualify as charitable institutions;

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nonprofit corporations, societies, associations, foundations and institutions organized and operated exclusively for the purpose of conducting scientific research of a character that would be beneficial to the public (held to be a charitable purpose); the American National Red Cross, Community Fund or United Fund organizations, the Y.M.C.A., the Y.W.C.A., Boy Scouts of America (as a corporation, but not as individuals), Girl Scouts of America (as a corporation or association, but not as individuals) nonprofit Parent-Teacher Associations, the National Safety Council and similar organizations and nonprofit societies for the prevention of cruelty to children or animals (all classified as charitable); free public libraries that are not operated for profit and that are not operated by commercial enterprises (whether such libraries are governmental units or not), and local housing authorities.

- 2) These examples are illustrative, but not exhaustive.
- 3) To come within this exemption, the purchaser (in addition to being organized and operated exclusively for charitable, religious or educational purposes) must be a "corporation", a "society", an "association", a "foundation" or an "institution".

- 1) "Educational purposes" and "School" defined and illustrated
 - 1) Receipts received from retail sales to corporations, societies, associations, foundations and institutions that are organized and operated exclusively for educational purposes are not taxable. There is no specific exemption in the Constitution for "educational purposes" as to any kind of tax, but Section 6 of Article IX of the Illinois Constitution authorizes the General Assembly to grant a property tax exemption for property that is used for "school...purposes". Consequently, the Department will construe the Retailers' Occupation Tax exemption for "educational purposes" as meaning for "school... purposes", as the phrase "school... purposes" has been interpreted or may be interpreted by the Supreme Court. Section 2h of the Act provides the statutory definition of "a corporation, society, association, foundation or institution organized and operated exclusively for educational purposes."

- 2) The Supreme Court has said that a school is a place where systematic instruction in useful branches of learning is given by methods common to schools and institutions of learning and does not include schools for teaching dancing, riding and deportment. In that connection, the Supreme Court has held that an organization which conducts a four-week training school each summer for funeral directors is not a school because the courses given and the intensity of their instruction do not compare favorably with those in a department of mortuary science and mortuary practice at regular colleges and universities, but represent only a superficial or brief instruction in courses constituting a minor part of the study of mortuary science.

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- 3) Consequently, flying schools, driving schools, art association schools, modeling schools, charm schools, and the like are not organized and operated exclusively for educational purposes because they do not offer courses which constitute systematic instruction in useful branches by methods common to public schools and which compare favorably in their scope and intensity with the course of study presented in tax-supported schools within the meaning of the Retailers' Occupation Tax Act.
- 4) However, the exemption for educational purposes includes private schools (such as parochial grade and high schools, private colleges and the like) as well as government-owned tax-supported schools so long as the institution qualifies as a school as hereinabove described.
- 5) Also, the Retailers' Occupation Tax "educational purposes" exemption is not limited by the statute to nonprofit institutions. The exemption would include vocational or technical schools or institutions organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business or commercial occupation (such as a business-operated law school) as long as the institution otherwise qualifies as a school within the meaning of this subsection and the Act. (See subsection (q) of this Section and Section 2(h) of the Act.)
- 6) In addition, for Property Tax purposes, the Supreme Court has held that an association, which is not itself a school in the ordinary sense, but which provides a substantial service in improving the educational standards of schools (such as the Association of American Medical Colleges), is within the "school purposes" exemption, so the Department will consider such an organization to be organized and operated exclusively for "educational purposes" for Retailers' Occupation Tax purposes.
- 7) Literary societies, though somewhat educational, are mainly for the benefit of their own members as a hobby or pastime and do not relieve the public of a duty nor contribute sufficiently to the public to qualify for an exemption, and they are not places where systematic instruction in useful branches of learning is given by methods common to schools and institutions of learning in the ordinary or commonly accepted meanings of those terms.
 - m) Nonprofit Hospitals and Sanitaria
 - 1) In the case of privately-owned hospitals, in addition to the fact that the hospital must be organized and operated as a nonprofit enterprise (with proceeds, if any, over expenses being put into the expansion of the hospital's services, equipment and physical plant), some of the tests which the Supreme Court has required to be met before the hospital can qualify as being organized and operated exclusively for charitable purposes are that the hospital must not discriminate against patients or doctors

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- because of race, color, creed or religion, and that the hospital must not refuse admittance to any patient because of his inability to pay for hospital service.
- 2) it is immaterial that most of the hospital's patients may be paying patients if the hospital does not adopt any policy which is calculated to prevent persons who cannot pay from seeking and obtaining admittance to the hospital.
 - 3) Delaying the admittance of nonemergency cases while the hospital makes an investigation to try to find someone who will give the prospective patient financial help has been held not to be an obstacle to admittance if the hospital does not engage in such delaying tactics in the case of emergency patients and if the hospital ultimately admits destitute patients notwithstanding the fact that they cannot pay for services and cannot procure financial help.
 - 4) A hospital does not lose its character as a charitable organization because of the fact that it refuses admittance to patients who are suffering from dangerously contagious diseases.
 - 5) Government-owned hospitals are deemed by the Department to be organized and operated exclusively for charitable purposes within the meaning of this Section.
 - 6) The principles stated in this subsection with respect to hospitals apply also to sanitariums and clinics.

n) Meaning of "Exclusively"

- 1) Although the provision of the Retailers' Occupation Tax Act under discussion, in excluding receipts from all sales to certain kinds of purchasers, refers to them as being organized and operated "exclusively" for charitable, religious or educational purposes, the Supreme Court has not given the word "exclusively" its most liberal interpretation under similar circumstances because of the virtual impossibility of anyone being engaged "exclusively" in anything, and so the Department will follow a similar policy in applying the word "exclusively", as used in the Retailers' Occupation Tax Act and in this Section, in order to carry out the manifest intention of the General Assembly.
- 2) However, if a substantial purpose or activity of the purchaser is not charitable, religious or educational, the Department will not consider the purchaser to be organized and operated exclusively for charitable, religious or educational purposes within the meaning of the Act.

o) Educational, Scientific and Similar Institutions, Associations and Organizations Operated as "Business" Enterprises -- When Liable For Tax

Persons engaged habitually, for livelihood or gain, in hospital, educational, religious, scientific, social or cultural enterprises, among those who are engaged in a service occupation which is nevertheless a "business" within the meaning of the Act. When persons who operate businesses of the type described in the preceding sentence

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sell tangible personal property to purchasers for use or consumption apart from their rendering of service, such persons incur Retailers' Occupation Tax liability. This is the case, for example, where hospitals which are conducted as "business" enterprises operate public dining rooms, public pharmaceutical dispensaries or otherwise sell tangible personal property at retail to the general public, or where schools which are operated as "business" enterprises sell tangible personal property at retail to the general public or make retail sales to students of clothing, dormitory supplies or other items which cannot be said to be used "primarily for the purposes of" the school. Also, business-operated schools incur Retailers' Occupation Tax liability on their retail sales of school books and school supplies to their students and faculty members.

p) Educational, Scientific and Similar Institutions, Associations and Organizations Operated as "Business" Enterprises -- When Not Liable For Tax

- 1) Persons of the type described in the preceding paragraph are engaged primarily in rendering service, and, to this extent, they are engaged in a service occupation. To the extent to which they engage in such service occupation, they are not required to remit Retailers' Occupation Tax measured by any of their receipts which they realize from their rendering of service, including those receipts which represent the price of tangible personal property which they transfer to others as a necessary incident to their rendering of service. The sale of meals to patients and the furnishing of medicine for a consideration to patients in the course of treatment by business-operated hospitals and business-operated licensed nursing homes come within this service occupation exemption for Retailers' Occupation Tax purposes. However, the tax liability of the person engaged in such service occupation is governed by the Incurs Service Occupation Tax Act ~~liability-on-his-cost-price-of-the-food--medicine-or-other-tangible-personal-property-which-such-person-purchases-and-retransfers-as-an-incident-to-service-to-users~~ (see Subpart A of the Service Occupation Tax Regulations, 86 Ill. Adm. Code 140).
- 2) Business-operated schools do not incur Retailers' Occupation Tax liability on their sales of meals in a dining facility which is located on the premises of the school and whose use is confined to the students and employees of the school.
- q) Suppliers of Educational, Scientific and Similar Institutions, Associations and Organizations Operated as "Business" Enterprises
 - 1) Suppliers of educational, scientific and similar institutions, associations and organizations operated as "business" enterprises do not incur Retailers' Occupation Tax liability when they sell tangible personal property to any such purchaser for resale either in connection with or apart from the purchaser's rendering of service to others. However, for information concerning the fact that purchases of food, medicine and other tangible

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personal property by business-operated hospitals or business-operated licensed nursing homes for retransfer to patients as an incident to service are subject to the Service Occupation Tax, see Subpart A of the Service Occupation Tax Regulations. Suppliers of purchasers of the kind referred to in the first sentence of this paragraph incur Retailers' Occupation Tax liability when they sell tangible personal property to any such purchaser at retail (i.e., for use or consumption by the purchaser or to be given away by the purchaser, and not for resale in any form as tangible personal property), provided that the tax does not apply to receipts received by the seller from sales of any kind made to a purchaser of this character who is able to qualify as a school. In excluding, from the measure of the tax, receipts received by the seller from sales of any kind to a school, the Act does not distinguish between business and nonprofit schools.

- 2) Nevertheless, while the Department recognizes that a purchaser may qualify as a school for exemption purposes notwithstanding the fact that the purchaser is organized and operated as a business enterprise, the Department takes the position that such a purchaser cannot be organized and operated exclusively for charitable or religious purposes if such purchaser is organized and operated as a business enterprise with a view to profit.

z) Reporting -- Records -- Burden of Proof

- 1) When a seller claims exemption from the Retailers' Occupation Tax for receipts received by the seller from his sale of tangible personal property to a corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, the seller should include such receipts in his Retailers' Occupation Tax return form, but then should deduct such receipts on the line provided for that purpose in the return form (see Subpart E of this Part).
- 2) The seller must maintain adequate books and records to sustain such deductions (see Subpart H of this Part).

- 3) Sellers claiming the benefit of this exemption are cautioned against laxity in claiming the benefit of this exemption without verifying the status of the purchaser since the seller will have the burden of proof in establishing his right to any such claimed exemption. The Courts have held repeatedly that the burden of sustaining a right to tax exemption is on the person claiming such exemption. Tax exemption provisions in statutes are strictly construed against the taxpayer, although the words employed in such provisions will be given their commonly accepted and understood meanings.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others

- a) Persons who Rent or Lease the Use of Tangible Personal Property to Others -- When Liable For Retailers' Occupation Tax

If persons who are engaged in the business of selling tangible personal property to purchasers for use or consumption purport to rent or lease the use of any such property to a nominal lessee or bailee, but in fact sell such tangible personal property to the nominal lessee or bailee for use or consumption, such persons are liable for payment of the Retailers' Occupation Tax. This is the case, for example, when the transaction involves a lease with a dollar or other nominal option to purchase. Such a transaction is considered to be a conditional sale from the outset, and all of the receipts from the transaction are subject to Retailers' Occupation Tax.

- b) Persons Who Rent or Lease the Use of Tangible Personal Property to Others -- When Not Liable For Retailers' Occupation Tax

Persons who, under bona fide agreements, rent or lease the use of automobiles under lease terms of more than one year, furniture, bus tires, costumes, towels, linens or other tangible personal property to others are, to this extent, not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Retailers' Occupation Tax Act and are not required to remit Retailers' Occupation Tax measured by their gross receipts from such transactions. However, such lessors (not being resellers) are users of the property and are subject to the Use Tax when purchasing tangible personal property which they rent or lease to others (see Sections 150.201 and 150.305(e) of the Use Tax (86 Ill. Adm. Code 150) and Section 130.220 of this Part). Except as provided in Sections 130.2011 and 130.2012 of this Part, such lessors incur Use Tax even if the tangible personal property is leased to an exempt entity that has been issued an exemption identification number under Section 130.2007 of this Part.

- c) Rentors of automobiles under lease terms of one year or less incur neither Use Tax liability on the cost price of the vehicle(s), nor Retailers' Occupation Tax liability on rental receipts. Persons engaged in this State in the business of renting automobiles in Illinois under lease terms of one year or less incur liability under the Automobile Renting Occupation and Use Tax Act [35 ILCS 155] ~~Rev-Stat-1989, ch-189, pars-1761-et-seq7~~. The Automobile Renting Occupation Tax rules are found at 86 Ill. Adm. Code 180.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property

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a) Persons Who Service or Repair Tangible Personal Property -- When
 Liable For Retailers' Occupation Tax

1) When persons who service or repair tangible personal property sell tangible personal property to purchasers for use or consumption apart from their rendering of service, they incur Retailers' Occupation Tax liability. This is the case, for example:

A) Where a repairman sells repair parts "over-the-counter" to a purchaser for use or consumption without any obligation on the part of the repairman to install such parts for the purchaser;

B) where a repairman repairs, rebuilds or reconditions property which belongs to himself and then sells such property to a purchaser for use or consumption apart from his rendering of service as a repairman;

C) where a repairman sells accessories (with or without installation), to purchasers for use or consumption; ~~and~~

D) where a repairman or other person engaged in a service occupation sells, "over-the-counter", to purchasers for use or consumption, apart from the rendering of service, such items as lubricants, grease, paint, wax, polish, lacquer, solder, materials for patching or repairing tires, and other tangible personal property; and

E) where a repairman manufactures and sells retread tires, whether or not the tire casing is provided by the purchaser. (But, see subsection (d)(2) of this Section regarding the patching of tires. Also see Section 130.330(d)(3)(G) of this Part for information regarding the Manufacturing Machinery and Equipment Exemption on retreading machinery and equipment.)

2) These principles apply to persons who repair or otherwise service every type of tangible personal property.

b) Examples of Accessories

1) In the case of automobiles, the term "accessories" includes, but is not limited to, the sale of such items of tangible personal property as gasoline, motor oil, alcohol and other antifreeze ~~anti-freeze~~ solutions, ash trays, batteries, cigar or cigarette lighters, clocks, heaters, radios, seat covers, seat cushions, tires, inner tubes and the like. (But, see subsection (d)(1) regarding repairs to, and servicing of, automobiles.)

2) In the case of furniture, slip covers are considered to be accessories, rather than repair parts or repair materials. For further information concerning slip covers, see Section 130.2140 of this Part.

c) Persons Who Service or Repair Tangible Personal Property -- When Not Liable For Retailers' Occupation Tax

1) Persons who engage in the business of repairing tangible personal property belonging to others (including, but not limited to,

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automobile repairmen, farm implement repairmen, furniture upholsterers and repairmen, garment repairmen, machinery repairmen, radio repairmen, refrigerator repairmen, shoe repairmen, tire and tube repairmen, and watch, clock and jewelry repairmen) are engaged in a service occupation. To the extent to which they engage in such service occupation, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption. Consequently, they are not required to remit Retailers' Occupation Tax measured by any of their receipts from engaging in such service occupation, including receipts from both labor and tangible personal property.

2) In addition to persons who repair tangible personal property belonging to others, this exemption also applies to persons who perform upon tangible personal property, which belongs to their customers, such services as cleaning, dyeing, greasing, laundering, painting, polishing, waxing, welding and other services.

d) Examples of Repair Work

1) The repairing of automobiles includes, but is not limited to, the replacement of parts, such as brake fluids, brake linings, carburetors, fan belts, fans, fenders, lights, gaskets, points, spark plugs, valves, windshield wipers and the like. This includes services such as changing oil and replacing antifreeze. (But, see subsection (b)(1) regarding the sale of automobile accessories.)

2) The repairing of tires or and inner tubes includes services such as patching or plugging, ~~but is not limited to, the patching or vulcanizing of--tires--and--inner--tubes--and--the retreading or recapping--of--tire--casings.~~ (But, see subsection (a)(1)(E) regarding retread tires.)

3) The repairing of shoes includes, but is not limited to, the replacement of such parts as heels, soles and the like by repairmen as a part of the repair work.

4) The repairing of watches and clocks includes, but is not limited to, the replacement of such parts as hands, springs and the like by repairmen as a part of the repair work.

5) The repairing of jewelry includes, but is not limited to, the sizing of rings and the soldering together of broken pieces of jewelry.

6) The repairing of radios includes, but is not limited to, the replacement of such parts as condensers, dials, radio tubes, volume controls and the like by repairmen as a part of the repair work.

7) The repairing of refrigerators includes, but is not limited to, the replacement of such parts as electric motors, refrigerator doors and the like by repairmen as a part of the repair work.

8) The repairing or upholstering of furniture includes, but is not

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limited to, the transfer of such items as glue, nails, paint, tacks, upholstering materials, varnish, wax and the like by furniture upholsterers and repairmen as a part of the repair work.

- 9) The repairing of garments includes, but is not limited to, the transfer of such items as buttons, collars, cuffs, fabrics, fur pieces, linings, thread and the like by repairmen as a part of the repair work.

- e) Cross Reference to Service Occupation Tax Regulations
Personal, property, repairmen and other servicemen referred to in this Section ~~hereinafter~~, though not liable for Retailers' Occupation Tax on their repair receipts, are liable under the For Service Occupation Tax Act on their cost-price-of-repair-parts--materials--and--other tangible--personal--property--which they purchase and retransfer as an incident to a sale of service when they transfer tangible personal property, incident to sales of service (see Subpart A of the Service Occupation Tax Regulations, 86 Ill. Adm. Code Part 140). ~~This is true whether such servicemen pay the Service Occupation Tax to their suppliers, or whether such servicemen assume the accountability for the Service Occupation Tax and pay it directly to the Department.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2020 Physicians and Surgeons

- a) When Liable For Tax
When physicians or surgeons sell items of tangible personal property such as medical bracelets, crutches, wheelchairs, first-aid kits, and the like, to purchasers for use or consumption apart from their rendering of service as physicians or surgeons, they incur Retailers' Occupation Tax liability. For information about whether these items qualify as medical appliances, see Food, Drugs, Medicines and Medical Appliances, 86 Ill. Adm. Code 130.310.

- b) When Not Liable For Tax
Physicians and surgeons are engaged in professions and primarily render service. To the extent to which they engage in such professions, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Act. Consequently, they are not required to remit Retailers' Occupation Tax measured by their receipts from engaging in such professions, including receipts from both services and tangible personal property transferred incident to those services.

- c) Liability Under the Service Occupation Tax Act
For information concerning the application of the Service Occupation Tax to sales by physicians and surgeons of tangible personal property that they transfer as an incident to rendering service, see the Service Occupation Tax regulations at 86 Ill. Adm. Code 140.

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2035 Registered Pharmacists and Druggists

- a) When Liable For Tax
When registered pharmacists or druggists sell drugs or medicines "over-the-counter" to purchasers for use or consumption apart from their filling of the prescription of a licensed physician or other person qualified to issue prescriptions, or when registered pharmacists or druggists sell other tangible personal property to purchasers for use or consumption, such registered pharmacists or druggists incur Retailers' Occupation Tax liability.

- b) When Not Liable For Tax
1) When registered pharmacists and druggists, who, themselves, are engaged in the practice of a licensed profession, sell medicines or drugs on the prescription of a licensed physician or other person qualified to issue prescriptions, such registered pharmacists and druggists are engaged primarily in a service occupation or profession and are not required to remit Retailers' Occupation Tax measured by their receipts from such transactions, including receipts from both labor and tangible personal property. These transactions are governed by the Service Occupation Tax Act. For information concerning the Service Occupation Tax, see 86 Ill. Adm. Code 140. For information on Sales of Drugs and Related Items, to or by pharmacists, see 86 Ill. Adm. Code 140.135.

- 2) For information concerning newspapers, magazines, books, sheet music and phonograph records, see Section 130.2105 of this Part.

- 3) For information concerning photofinishing, see Section 130.2000 of this Part.

- 4) For information concerning sales of medicines, see Section 130.310 of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like

- a) When Liable For Tax
Every person (including nonprofit service organizations as well as other persons) engaging in the sale of any tangible personal property for use or consumption at a concessionaire at the Illinois State Fair, County Fairs, art shows, flea markets and the like may be **are** required to make a daily report of the amount of such sales to the Department and to make a daily payment of the full amount of tax due. Upon receiving such payment, the Department will issue to the

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concessionaire an official receipt. *The Department shall impose this requirement when it finds that there is a significant risk of loss of revenue to the State at such an exhibition or event. Such finding shall be based on evidence that a substantial number of concessionaires or other sellers who are not residents of Illinois will be engaging in the business of selling tangible personal property at retail at the exhibition or event, or other evidence of a significant risk of loss of revenue to the State.* [Section 3 of the Act.]

- b) Contract With Illinois State Fair Management
- It is a condition of the contract between each concessionaire who is subject to the Retailers' Occupation Tax Act and the Illinois State Fair Management that the concessionaire shall pay Retailers' Occupation Tax "upon demand" by the Department. Any concessionaire who violates this provision of his contract or who fails to make the daily report and payment of tax required by this Regulation, will be certified by the Department to the Superintendent of Concessions of the Illinois State Fair as not being in good standing, together with the request that action be taken immediately to cancel all privileges granted to such concessionaire under his concession.
- c) Notification by Department
- Concessionaires will be contacted by the Department during the course of County Fairs, art shows, flea markets and the like, and informed that Retailers' Occupation Tax shall be paid "upon demand" to the Department. In the absence of notification by the Department, concessionaires shall file their returns as otherwise provided in Subpart E of this Part entitled "Returns".

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2055 Sales by Governmental Bodies

- a) Sales by the State of Illinois and by Local Governments in Illinois
- Effective August 1, 1961, the State of Illinois or any local governments in Illinois, or any agency or instrumentality of any such governmental body, incurs Retailers' Occupation Tax liability when it engages in the selling of tangible personal property at retail to the public other than in the performance of a governmental function. This includes the selling of fuel to users by airport authorities or other governmental bodies, except that it does not include the proceeds from the sale of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage, in the conduct of its business or as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers a destination outside the United States. Also included is the operation of public stands by park districts or

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other governmental bodies, etc., but does not include the furnishing of utility services to the public, and does not include sales that may be made by such a governmental body to the public involving 7-and-80s include the performance of a governmental function (such as the sale of motor vehicle license plates by the State of Illinois).

- b) Sales by the United States Government and by Foreign Governments
- Since a state may not place the legal incidence of its taxes directly on the United States Government or on a foreign government, sales by the United States Government and foreign governments, or any agency or instrumentality of any such government, are not subject to the Retailers' Occupation Tax even though such sales may be made in Illinois. For example, sales by the United States Postal Service are not subject to Retailers' Occupation Tax.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products

- a) Retailers' Occupation Tax on Retail Sales of Alcoholic Beverages
- Persons engaged in the business of selling alcoholic beverages to purchasers for use or consumption are required to remit Retailers' Occupation Tax to the Department upon their gross receipts from such sales, notwithstanding the fact that manufacturers and importing distributors of alcoholic beverages are required to pay certain taxes under the Liquor Control Act of 1934 [235 ILCS 5] ~~441r-Rev-Stat-1989,--ch--43,--para--493--et-seq-7~~. It is immaterial whether such alcoholic beverages are consumed on or off the premises where such alcoholic beverages are sold. In computing Retailers' Occupation Tax liability, no amount may be deducted from gross receipts from retail sales of alcoholic beverages to cover the taxes which have been paid by manufacturers or importing distributors of alcoholic beverages under the Liquor Control Act of 1934. Since the legal incidence of the Cook County Liquor Gallonage Tax is on the consumer, with the seller acting merely as a collector of the tax for the county, amounts collected because of the Cook County Liquor Tax are not considered to be a part of the liquor retailer's receipts that are subject to Retailers' Occupation Tax.

- b) Retail Sales of Motor Fuel
- Persons engaged in the business of selling motor fuel to purchasers for use or consumption are also required to remit Retailers' Occupation Tax to the Department upon their taxable receipts from such sales. In computing their Retailers' Occupation Tax liability, persons who sell motor fuel for use or consumption may deduct, from their gross receipts from such sales, the Illinois Motor Fuel Tax collected with respect to such sales, because the Illinois Motor Fuel Tax is on the consumer and is not considered to be a part of the "selling price" of the motor fuel. The rate of the Illinois Motor

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Fuel Tax is 19¢ per gallon. (Also, see 86 Ill. Adm. Code 500.)

c) In addition, the Cook County Motor Fuel Tax is imposed upon the consumer and is therefore also deductible from gross receipts. However, County Motor Fuel Taxes imposed under the County Motor Fuel Tax Law are includable in gross receipts subject to Retailers' Occupation Tax because such taxes are imposed upon retailers of motor fuel and not upon consumers.

d) ~~et~~ Retailers' Occupation Tax on Retail Sales of Cigarettes and Other Tobacco Products

1) Persons engaged in the business of selling cigarettes, cigars and other tobacco products incur Retailers' Occupation Tax liability when selling such products to purchasers for use or consumption. In the case of cigarettes, the amount of the retail selling price represented by the State Cigarette Tax or Cigarette Use Tax should be included in the total selling price in arriving at the net taxable selling price. The rate of the Cigarette Tax and the Cigarette Use Tax is 29 1/2 mills per cigarette, or 589¢ per package on a package of 20 cigarettes.

2) If a home rule jurisdiction, such as Chicago, imposes a cigarette tax the amount of such local cigarette tax likewise is not subject to Retailers' Occupation Tax. If any local government, pursuant to authorization from the Illinois General Assembly to do so, should impose a cigarette tax in the nature of an occupation tax, the amount collected by retailers because of that kind of local cigarette tax is also subject to Retailers' Occupation Tax.

e) ~~et~~ Improper Collection of Tax
The retailer should not collect tax on amounts as to which he is acting merely as a tax collector, such as the Cook County Liquor Gallonage Tax the Illinois Motor Fuel Tax. If the retailer does erroneously collect tax on any such amount, he must refund the erroneously collected tax to the purchaser or else remit such erroneously collected tax to the Department. He may not retain it. Also, if the retailer knowingly collects tax from customers on receipts which are not subject to Retailers' Occupation Tax, he can be subjected to prosecution for a criminal violation.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 130.2065 Sales of Automobiles for Use in Demonstration (Repealed)

a) ~~Sales by Dealers to Salesmen~~
~~Where--automobile-dealers-sell-automobiles-for-use-in-demonstration-to-salesmen-who-are-acting-as-their-agent-for-the-sale-of-automobiles--such-sales-are-to-purchasers-for-use-or-consumption-within-the-meaning-of-the-Retailers'Occupation-Tax-Act--and-such-dealers-are-required-to-remit-Retailers'Occupation-Tax--to--the-Department--on--their-gross~~

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~~receipts-from-such-sales--Such-salesmen-do-not-engage-in-the-business-of-selling-automobiles-on-their-own-behalf-but-act-as-agents-for-the-dealers-who-are-the-actual-sellers-for-use-or-consumption--and-are liable--for--the--tax--Automobile-dealers-are-not-making-sales-for-resale-when-they-sell-automobiles-to-salesmen-for-such-purposes~~

b) ~~Sales of Demonstrators by Salesmen~~
~~Where-the-salesmen-resell-their-own-demonstratory--they--are--making initiated--or--occasional--sales--the-gross-receipts-from-which-are-not within-the-Act--~~

(Source: Repealed at 24 Ill. Reg. _____, effective _____.)

Section 130.2070 Sales of Containers, Wrapping and Packing Materials and Related Products

a) Definition
When used in this Section, the term "containers" includes all containers, wrapping and packing materials, bags, twines, bottles, handles, wrapping papers, gummed tapes, cellophane, boxes, bottles, drums, cartons, sacks or other packing, packaging, containing and wrapping materials in which tangible personal property may be contained.

b) Sales for Resale

1) Sellers of containers to purchasers who sell tangible personal property contained in such containers to others are deemed to make sales of such containers to purchasers for purposes of resale; the receipts from which sales are not subject to the Retailers' Occupation Tax, if the purchasers of such containers transfer with the ownership of the containers to their customers contained in such containers.

2) For example, a sale of fruit boxes to a packer who fills the boxes with fruit and sells the fruit in such boxes is a sale of the boxes upon pallets that are then transferred to purchasers and the ownership of the pallets also passes to the purchasers, then the packer who purchases the pallets would be making a purchase for resale. There is no difference between a returnable container whose ownership is transferred with a deposit being taken and a nonreturnable container. This means that if the seller charges purchasers a deposit for pallets, or other containers, and there is an understanding that the pallet of other container can be returned by purchasers for refund or credit of the deposit amount, then the purchase of the pallets or other containers by sellers are nontaxable purchases for resale. Although sales of containers to purchasers who retransfer such containers to others as an incident to engaging in a service

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occupation are not subject to the Retailers' Occupation Tax, such transactions are governed by subject to the Service Occupation Tax Act (see Subpart A of Service Occupation Tax, 86 Ill. Adm. Code 140).

- 3) Effective August 1, 1997, nonreusable tangible personal property sold to food and beverage vendors, including persons engaged in the business of operating restaurants, cafeterias or drive-ins, is a sale for resale when it is transferred to customers in the ordinary course of business as part of the sale of food or beverages and is used to deliver, package, or consume food or beverages, regardless of where consumption of the food or beverage occurs. Examples of such items include, but are not limited to, paper and plastic cups, plates, baskets, boxes, sleeves, buckets or other containers, utensils, straws, placemats, napkins, doggie bags and wrapping or packaging materials that cannot be reused by the food or beverage vendor and which are transferred to customers as part of the sale of food or beverages. Such items do not include items which are used by the food vendor in conducting his business and which are not transferred to the customer, including, but not limited to, paper products, serving trays, serving dishes, utensils or condiment bottles.

c) Sales for Use or Consumption

- 1) Sellers of containers to purchasers who do not transfer the ownership thereof to others, but who intend such containers merely to provide a means of containing tangible personal property while in the process of being delivered to their customers, retaining and reusing or discarding the containers after such delivery is completed, and sellers of containers to purchasers who use such containers as a means of storing tangible personal property, are making sales for use or consumption, and their receipts from such sales are subject to the Retailers' Occupation Tax.

- 2) Also, paper towels and toilet tissues are deemed to be sold for use or consumption when sold to a purchaser for use in connection with the conduct of his business and not for resale as such.

- 3) Sales of paper napkins, drinking straws, paper cups and paper plates to operators of office buildings, hotels and the like for the use of their employees, tenants or guests are taxable retail sales.

- 4) Through July 31, 1997, sales of paper napkins, drinking straws, paper cups and paper plates to restaurants (including drive-in restaurants) and other vendors of food or beverages for use on the premises as serving equipment in lieu of more durable kinds of serving equipment (such as linen napkins, metal drinking straws, glass or porcelain cups and plates) are taxable retail sales. Sales of paper napkins, drinking straws, paper cups and paper plates to food or beverage vendors are nontaxable sales for

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resale if the items are resold for a direct and specific charge, or if the items are employed as containers for food or beverages contained therein and are transferred with the food or beverages to the purchaser thereof either by being delivered by the food or beverage vendor away from his premises to his customers or by being delivered on the premises of the food or beverage vendor to customers who take the packaged food or beverages away from such premises with them for consumption elsewhere (i.e., the so-called "carry-out trade"). In general, it may be assumed that paper sacks, boxes, cartons and paper cups with lids, when sold to a food or beverage vendor, are for resale within the meaning of this paragraph. The same is true of paper cups which are used in vending beverages or other tangible personal property from a vending machine.

- 5) When nonreusable paper products such as napkins, drinking straws, cups or plates are sold to a food or beverage vendor who uses some of these products on his premises in conducting his business, but who resells some of these products as hereinabove provided, and it is impracticable, at the time of the sale of such food or beverage vendor, to determine exactly how much of the purchase is for use and how much is for resale, the purchaser may determine, from his experience, approximately what percentage of his purchases of such paper products is for resale and may give the supplier a blanket Certificate of Resale certifying that that percentage of his purchases of such products in the future will be for resale. If the Department goes behind such a Certificate of Resale to check its accuracy, the Department will not disallow the Certificate of Resale if the percentage stated is reasonably close to what the facts actually are. Such a purchaser should redetermine and recertify such percentage to suppliers of such paper products at least every 12 months. If the purchaser uses some of the paper products which he has certified are for resale so that he does not pay tax to his suppliers on his purchases of such products, the purchaser is liable to pay the Use Tax directly to the Department on his cost price of such paper products.

- 6) When containers are sold to a purchaser for use or consumption, it is not material that the purchaser, after such containers have been used by him until they no longer have utility to him, sells such containers in order to recover as much as he can of the amount which he has invested in such containers.

- 7) Pallets are taxable upon purchase by sellers and do not qualify for the resale exemption where after sale and delivery of the products contained on the pallets the seller retains and reuses the pallets or discards them.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 130.2075 Sales To Construction Contractors, Real Estate Developers and Speculative Builders

- a) Sales to Construction Contractors, Real Estate Developers and Speculative Builders -- When Taxable and When Not Taxable

1) Persons who engage in selling tools, equipment, fuel, supplies and other tangible personal property to construction contractors, and other tangible personal property to construction contractors, real estate developers or speculative builders for use or consumption in their business, are not liable for the State's Occupation Tax liability. This means that if the purchaser uses the tangible personal property by converting it into real estate in this State in any manner, he must include the cost price of such tangible personal property in his reported taxable receipts in his return to the Department and must pay the State Retailers' Occupation Tax along with any other applicable Occupation Taxes (not the Use Tax, but the Retailers' Occupation Tax) thereon to the Department, and must pay the Home Rule Municipal or County Retailers' Occupation Tax thereon, if applicable. For example, a contractor who also sells "over-the-counter" gives this certification when he buys dry wall from a supplier located in Springfield, Illinois. Subsequent to the purchase the contractor incorporates some of the dry wall into real estate on a job. The contractor must account for the tax by paying the State Retailers' Occupation Tax and the Springfield Home Rule Municipal Retailers' Occupation Tax on his return by including the cost price of the dry wall converted to real estate in his taxable receipts.

2) When the purchasing construction contractor (whether he is the prime contractor or the subcontractor) buys the item that he will convert into real estate in finished form, the tax base is what such construction contractor pays for the item. When the construction contractor-installer (whether he is the prime contractor or a subcontractor) is also the manufacturer of the finished item that he will incorporate into real estate for his customer, the tax base is what such construction contractor pays for the materials that he incorporates into such finished item, plus whatever such construction contractor may pay for nails, screws or other items of tangible personal property that he buys and incorporates into real estate for his customer in the course of making the installation of the finished item.

3) For information as to who qualifies as a construction contractor, see Section 130.1940(a) and (c) of this Part.

4) Sales of tangible personal property to construction contractors, real estate developers or speculative builders who resell such property in the form of tangible personal property would not be taxable sales, but the construction contractor, real estate developer or speculative builder would be making taxable resales in this situation (see Section 130.1940(b) and (c) of this Part-7).

- b) When and How Purchasing Contractor May Certify that He Will Assume Accountability for the Tax-Effect of Such Certification

1) When the purchaser of tangible personal property may use such property by converting it into real estate, but may resell such property "over-the-counter" apart from acting as a construction contractor, and where it is impracticable, at the time of purchasing such tangible personal property, for such purchaser to determine in which way he will dispose of the property, such purchaser may certify to his vendor that he is buying all of such tangible personal property for resale and thereafter account to

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The Department for the tax on disposing of such property.

2) ~~The provided~~ ~~the~~ purchaser may not give such certification to his supplier unless the purchaser, if he will convert the tangible personal property into real estate in this State, agrees to, and does, assume the liability for reporting and paying the tax to the Department in the same form (Illinois Retailers' Occupation Tax, and local Retailers' Occupation Tax if applicable) in which the supplier would have reported and paid such tax if the supplier had accounted for the tax to the Department. This means that if the purchaser uses the tangible personal property by converting it into real estate in this State in any manner, he must include the cost price of such tangible personal property in his reported taxable receipts in his return to the Department and must pay the State Retailers' Occupation Tax along with any other applicable Occupation Taxes (not the Use Tax, but the Retailers' Occupation Tax) thereon to the Department, and must pay the Home Rule Municipal or County Retailers' Occupation Tax thereon, if applicable. For example, a contractor who also sells "over-the-counter" gives this certification when he buys dry wall from a supplier located in Springfield, Illinois. Subsequent to the purchase the contractor incorporates some of the dry wall into real estate on a job. The contractor must account for the tax by paying the State Retailers' Occupation Tax and the Springfield Home Rule Municipal Retailers' Occupation Tax on his return by including the cost price of the dry wall converted to real estate in his taxable receipts.

3) The local Retailers' Occupation Tax to be paid by the contractor or builder in this situation shall be paid for the benefit of the entity in which the place of business at or from which the contractor or builder handles the transaction is located, if such entity has adopted the local Retailers' Occupation Tax at the time when the contractor or builder converts the tangible personal property in question into real estate.

4) Such purchaser, who assumes the responsibility for accounting for the tax, must pay State Retailers' Occupation Tax (plus local Retailers' Occupation Tax, if applicable) on the full selling price of the tangible personal property if he resells the property "over-the-counter" to a user (including a construction contractor) apart from acting as a construction contractor himself.

5) A purchaser of this type would have to be registered with this Department under the Retailers' Occupation Tax Act since he would be incurring some Retailers' Occupation Tax liability, so he would be required to furnish his vendor with his Retailers' Occupation Tax registration number in the Certificate of Resale referred to in this Part ~~hereinabove~~.

6) The tax involved in this Regulation is State Retailers'

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Occupation Tax and Use Tax and local Retailers' Occupation Tax, but not State or local Service Occupation Tax or Service Use Tax.

- 7) Purchasing contractors may not give this certification to make purchases from out-of-enterprise zone (see Section 130.1951 of this Part) retailers with resale certificates and then claim they are retailers entitled to claim the enterprise zone exemption to avoid the tax on sales of building materials.

- c) Use Tax on Out-of-State Purchases
Tangible personal property bought outside this State either by Illinois or out-of-State construction contractors or builders in such a way that the seller does not incur Retailers' Occupation Tax liability and used in this State for building purposes is subject to the Use Tax. If the purchaser buys such tangible personal property from an out-of-State seller who is registered with the Department as a Use Tax collector, the purchaser should pay the Use Tax to such seller unless the purchaser is also a retailer and elects to assume responsibility for accounting for all the tax on such materials. If the purchaser buys such materials outside Illinois from an unregistered seller, the purchaser should pay the Use Tax directly to this Department. No local Retailers' Occupation Tax is applicable in this situation.

- d) Sales of Materials to Construction Contractors Acting for Exclusively Charitable, Religious or Educational Organizations or Institutions, or for Governmental Bodies

- 1) Sales of materials to construction contractors for incorporation into real estate owned by exclusively charitable, religious or educational institutions or organizations, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older, or for incorporation into real estate owned by governmental bodies, are exempt from Retailers' Occupation Tax and Use Tax. The intent of the Legislature was to relieve the above-designated kinds of purchasers from the burden of tax on their purchases whether the purchases are made directly or indirectly by these organizations. Therefore, the exemption applies to their indirect purchase of building materials.

- 2) However, effective March 17, 1965, this exemption does not extend to sales of materials to construction contractors for incorporation into real estate owned by a national bank, a State-chartered bank or a Federally or State chartered savings and loan association (see Section 130.2085 of this Part). Sales of materials to, and purchases of materials by, such construction contractors are taxable sales and purchases.

- 3) Also, sales of tools, fuel, lumber for forms and other end use or consumption items to construction contractors who do not

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incorporate these items into real estate are taxable sales regardless of who the contractor's customer may be, and this has been true since the beginning of the Act.

- 4) A supplier claiming exemption hereunder shall have among his records a certification from the purchasing contractor stating that his purchases are for conversion into real estate under a contract with a church, charity, school or governmental body, identifying the church, charity, school or governmental body that is involved by name and address and stating on what date his contract was entered into. The supplier shall also have among his records the active exemption number issued by the Department to the organization for which the purchasing contractor is acting.

- e) Sales of Materials to Construction Contractors for Incorporation into Public Improvements Which Are Required to be Transferred to a Unit of Local Government Upon Completion

For the same reason stated in subsection (d) of this Section Part, sales to construction contractors of materials which will be physically incorporated into public improvements, the ownership of which is required to be conveyed to a unit of local government pursuant to a pre-development transfer requirement are exempt from Retailers' Occupation Tax and Use Tax. The supplier shall have among his records the active registration number issued by the Department to the governmental unit to which the public improvements will be transferred upon completion. The pre-development transfer requirement may take the following forms:

- 1) Where language in the local governmental unit's subdivision ordinance explicitly requires that title to public improvements be transferred to the local governmental unit upon completion, the pre-development transfer requirement is satisfied as to all public improvements (such as roads and streets, sidewalks, sanitary sewer systems and storm water drainage systems) actually required to be transferred under the terms of that ordinance;
- 2) Where language in a pre-development agreement between the local governmental unit and a developer explicitly requires that title to public improvements be transferred to the local governmental unit upon completion, the pre-development transfer requirement is satisfied as to all public improvements actually required to be transferred under the terms of that pre-development agreement;
- 3) Where a plat of subdivision, formally approved by a municipality, has been recorded with the County Recorder of Deeds and where that recorded plat contains a public dedication of improvements, the pre-development transfer requirement is satisfied as to roads and streets located within the corporate limits of the approving municipality and any other improvements located within the corporate limits which are dedicated on the plat to the public use and for no other purpose;
- 4) Where a plat of subdivision, formally approved by a county with

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fewer than 500,000 inhabitants which has established regulations regarding location, width and course of roads and streets, has been recorded with the County Recorder of Deeds and where that record plat contains a public dedication of roads and streets located in the unincorporated area of the approving county, the pre-development transfer requirement is satisfied as to those public roads and streets. In this context, only grading and surface materials which actually become part of the roadbed and materials incorporated into curbs and gutters qualify for the exemption. Other items such as catchbasins, drainage pipe or materials incorporated into sidewalks do not qualify for the exemption.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2085 Sales to or by Banks, Savings and Loan Associations and Credit Unions

a) Sales to Banks, Etc.
 ++ Retail sales to national banks, State-chartered banks, Federally-chartered savings and loan associations, State-chartered savings and loan associations and other privately-owned financial institutions are subject to the Retailers' Occupation Tax. This conclusion also applies to sales of building materials and fixtures to construction contractors for incorporation into real estate owned by banks and savings and loan associations even if such real estate is used for bank or savings and loan association purposes. For the foregoing purposes, the date of sale is considered to be the date of delivery to the purchaser. Federally-chartered credit unions, the Federal National Mortgage Association (Fannie Mae), Farm Credit Banks, and Federal Home Loan Banks do not incur Use Tax liability when making purchases of tangible personal property for use or consumption. (See respectively 12 USC 485e-1768, 12 USC 1723(a)(12), 12 USC 2023 and 12 USC 1433.) Retailers making sales of tangible personal property to Federal credit unions, the Federal National Mortgage Association (Fannie Mae), Farm Credit Banks, and Federal Home Loan Banks are not able to reimburse themselves for the Retailers' Occupation Tax they incur as a result of making such sales by collecting the reimbursing Use Tax. Nonetheless, retailers making sales of tangible personal property to Federal credit unions, the Federal National Mortgage Association (Fannie Mae), Farm Credit Banks, and Federal Home Loan Banks do incur Retailers' Occupation Tax liability on their gross receipts from such sales.

2) Sales-to-Federal-Reserve-Banks-Federal-Land-Banks--and-Federal Home--Loan-Banks--are--exempt--from--the--Retailers--Occupation-Tax under--the--exemption--for--sales--to--governmental--bodies.

b) Sales by Banks, Etc.

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State-chartered banks and both Federally- and State-chartered savings and loan associations, which engage in selling tangible personal property at retail, are liable for Retailers' Occupation Tax on their receipts from such sales commencing March 17, 1965. Effective February 1, 1970, national banks that ~~which~~ engage in selling tangible personal property at retail also are liable for Retailers' Occupation Tax on their receipts from such sales.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2100 Sellers of Feeds and Breeding Livestock

a) Illustrations
 The term "feed" includes salt, grains, tankage, oyster shells, mineral supplements, vitamins, limestone and other generally recognized animal feeds.

b) Sellers of Feeds -- When Liable For Tax
 The sale of feeds to a purchaser for use in feeding horses, livestock or poultry that are used, employed or consumed, and the products (if any) of which are used, employed or consumed, for purposes other than sale at market, constitutes a "sale at retail" within the meaning of the Retailers' Occupation Tax Act. In such case, gross receipts of the seller from this source must be included in computing tax liability.

c) Sellers of Feeds -- When Not Liable For Tax
 Persons selling feeds to purchasers for feeding livestock or poultry for marketing, or for producing dairy products or eggs for marketing, are not making sales for use or consumption. Such sales of feeds are deemed to be sales, for purposes of resale, of the property which, "as an ingredient or constituent goes into and forms a part of tangible personal property subsequently the subject of a 'sale at retail'".

d) Sellers of Breeding Livestock -- When Not Liable For Tax
 Farmers or producers of breeding livestock are not liable for Retailers' Occupation Tax with respect to gross receipts realized from the sale of bulls, stallions or other servicing animals for breeding purposes. In addition, sellers of semen used for artificial insemination of livestock for direct agricultural production are not liable for Retailers' Occupation Tax with respect to gross receipts realized from such sales.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records, and Their Suppliers

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a) Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records

- 1) Sellers of books, sheet music and phonograph records incur Retailers' Occupation Tax liability when they sell any of these items to purchasers for use or consumption and not for resale.
- 2) Sales of newspapers and magazines are not subject to the tax because of the Newspaper and Ink Exemption. In determining whether a publication qualifies as a magazine for the purpose of the Newspaper and Ink Exemption, there is one test that must be met and several other factors to be considered. The test that must be met for a publication to qualify as a magazine is that it must be published periodically in the form of newspaper and ink. Periodically means at least two times per year. The other factors to be considered are whether a member of the public can subscribe to the publication, whether the publication is one that has the basic format of a magazine, including soft covers, individual pages and indexed articles, whether it contains articles and items that have value to the general public rather than to a specialized class of people, and whether it contains general advertising. A publication that has one or more of these characteristics would be considered to be a magazine, assuming the initial test of periodic publication is met. The sale of news or other information that is not made in this format of a magazine does not qualify for the exemption because Section 1 of the Retailers' Occupation Tax Act limits the exemption to the form of CD-ROM discs or via electronic means where the customer downloads the information are taxable because these transfers are not in the form of newspaper and ink.
- 3) Sales by exclusively religious, charitable or educational organizations of books or other items containing such organizations' own individualized literature which cannot be bought from persons who are engaged in business are not subject to the Retailers' Occupation Tax even if such sales are made to the public because such sales are not competitive with retailers.
- 4) Sales of school books by schools to their students are not considered to be sales that are made "primarily for the purposes of" the school and so are subject to the Retailers' Occupation Tax.

b) Suppliers of Persons Who Sell Newspapers, Magazines, Books, Sheet Music and Phonograph Records

- 1) Use or Consumption
Persons who engage in selling equipment and supplies and other tangible personal property to purchasers who sell newspapers, magazines, books, sheet music or phonograph records, and who retain and use or consume such equipment and supplies, are engaged in the business of selling tangible personal property to

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Purchasers for use or consumption and incur Retailers' Occupation Tax liability when making such sales. However, the proceeds from the sale of graphic arts machinery and equipment, including repair and replacement parts therefor, both new and used, including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production, are not subject to the tax.

2) Resale

- A) However, suppliers of persons who sell newspapers, magazines, books, sheet music or phonograph records do not incur Retailers' Occupation Tax liability when selling tangible personal property to such persons for resale.
- B) This latter class of sales includes sales of paper stock, ink, glue, brads, binding tape, staples, phonograph record blanks and other tangible personal property, where such tangible personal property is purchased by persons who sell newspapers, magazines, books, sheet music or phonograph records and is incorporated, physically by them, as ingredients or constituents, into newspapers, magazines, books, sheet music or phonograph records which they sell to others.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2115 Sellers of Machinery, Tools and Special Order Items the-Like

- a) When Liable For Retailers' Occupation Tax
 - 1) Sellers of machinery, tools, dies, jigs, patterns, gauges, models, exhibits, and the like to users or consumers incur Retailers' Occupation Tax liability except as specified in subsection (b) of this Section hereof, and except to the extent that the item sold is exempted by the provisions of the Act. This is true whether the seller installs such tangible personal property for the purchaser or not. [For information concerning the taxability of receipts from installation charges, see Section 130.450 of this Part.]
 - 2) The fact that it is not a stock item and is only produced after an order is received, or is an alteration of a standard item, is not sufficient to exempt it from Retailers' Occupation Tax unless it meets all the exemption tests of subsection (b) below.
 - 3) Even if the sale would otherwise qualify for exemption under subsection (b) of this Section, the sale is taxable if the designing of the property that is to be sold is done by the purchaser, or by someone other than the seller hired by the purchaser, but the sale is not taxable if the seller is responsible for furnishing the service of designing such property or for contributing substantially to the designing of such

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4) However, effective January 1, 1964, a single repeat order or simultaneous orders from a user (so-called multiple orders) for 50 or more of the same item which would otherwise qualify for exemption under subsection (b) of this Section will be deemed to be volume production and will be subject to Retailers' Occupation Tax on the total amount received by the seller from any such volume production multiple order or orders. Also, effective January 1, 1964, even if an item qualifies for Retailers' Occupation Tax exemption under subsection (b) of this Section, subsequent sales by the seller of the same item without material change to the purchaser for use (so-called repeat orders) are subject to the Retailers' Occupation Tax because the skill that is involved after the first item is made is production skill and not specialized engineering and design skill. For example, a building contractor may special order individual roof trusses that are to be engineered and fabricated by the seller. Even though the seller may use his or her skill to design and build the roof trusses, the seller will incur Retailers' Occupation Tax liability, rather than Service Occupation Tax liability, on those sales if the seller produces 50 or more identical roof trusses.

5) In the case of special assemblies, such as switchboards, where the completed product is made almost entirely of standard parts and materials which can be interchanged in other like products and sold to other users, the sale is taxable.

b) When

1) The seller of a special machine, tool, die, jig, pattern, gauge or other similar item is engaged primarily in a service occupation, rather than in the business of selling tangible personal property, and so does not incur Retailers' Occupation Tax liability with respect to the sale, if the following tests for exemption are all met in the transaction:

- A) The purchaser employs the seller primarily for his engineering or other scientific skill to design and produce the property on special order for the purchaser and to meet the particular needs of the purchaser;
 - B) The property has use or value only for the specific purpose for which it is produced; and
 - C) The property has use or value only to the purchaser.
- 2) On the requirement of design by the seller, it is sufficient if the seller is responsible for making a substantial contribution to the designing of the property that is to be produced on special order and sold.
- 3) If the item qualifies for Retailers' Occupation Tax exemption under this Section, such exemption is not lost merely because the seller subcontracts the service work to someone else as long as the seller is contractually responsible to see that the necessary

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service work is provided.

4) On the question of "use or value only to the purchaser", this test for exemption is met if the property is not standard enough to be stocked or to be ordered from a catalog or other type of sales literature, but has to be produced in accordance with special requirements which are peculiar to the purchaser and not common to someone else whose conditions for possible use of the property can be shown by the Department to be reasonably comparable to those of the purchaser.

5) In the case of special assemblies such as special conveyors, the sale does not become taxable (if it would otherwise be exempt under this subsection (b) hereunder) merely because a fairly substantial portion of the completed product is made of standard parts or of raw material (such as steel) which can be stocked for sale.

b) Cross Reference to Service Occupation Tax Regulations

When a seller is exempt from the Retailers' Occupation Tax under subsection (b) of this Section because of being engaged primarily in a service occupation, the transaction is governed by the ~~he is liable for Service Occupation Tax on his selling price of tangible personal property--which--he transfers as an incident to a sale of service~~ (see Subpart A of the Service Occupation Tax Regulations, 86 Ill. Adm. Code Part 140).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2130 Undertakers and Funeral Directors

a) Funeral Directors -- When Liable For Tax

1) A funeral director is engaged in the business of selling tangible personal property to purchasers for use or consumption when he sells such items of tangible personal property as caskets, grave vaults, grave clothing and flowers to purchasers for use or consumption, and he is required to remit Retailers' Occupation Tax to the Department on his gross receipts from such sales. This is true even though he makes such sales as a part of a funeral.

2) In the absence of invoices and other books and records disclosing a different retail price, the Department will presume that the funeral director's retail selling price of a casket is not less than double the price at which the casket was purchased by such funeral director.

3) In the absence of invoices and other books and records disclosing a different retail price, the Department will presume that a funeral director's retail selling price of grave clothing, vaults, flowers and other tangible personal property is not less than the retail price of similar property when it is sold

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"over-the-counter" apart from the rendering of undertaking services.

b) Funeral Directors -- When Not Liable For Tax

A funeral director or undertaker is engaged also in a service occupation or profession within the meaning of Section 1 of the Retailers' Occupation Tax Act when he performs such functions as embalming bodies or when he provides livery service and other equipment in the conducting of funerals. To the extent to which he engages in such service occupation or profession, he is not engaged in the business of selling tangible personal property to purchasers in the business of selling tangible personal property to purchasers for use or consumption and is not required to remit Retailers' Occupation Tax measured by any of his receipts from engaging in such service occupation or profession, including those receipts which represent the price of tangible personal property, such as embalming fluids and the like, which he transfers to others as a necessary incident to his engaging in a service occupation as a funeral director.

c) Funeral Directors -- Liability Under Service Occupation Tax

For information concerning the application of the Service Occupation Tax to the funeral director's purchase of embalming fluid or other tangible personal property which he retransfers as an incident to rendering service, see the Service Occupation Tax Regulations.

d) "Pre-need" Contracts

When a "pre-need" contract is entered into allowing customers to pre-select cemetery or other funeral services and merchandise where the customer agrees to pay for cemetery or other funeral merchandise in installments over a period of time and the payments received are placed in trust and not paid to the seller until a certified death certificate, a death maturity form and a certificate of performance is given to the trustee, a sale at retail does not occur until the delivery of the tangible personal property. A retail sale only occurs when there is a transfer of tangible personal property. (See Section 130.201 of this Part.) If multiple items of tangible personal property are subject to the contract, delivery of one item does not trigger the taxability of all items. Only the item delivered is subject to taxation. The tax rate in effect on the date of delivery is the rate that will be applied.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2140 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order

a) When Liable For Tax

1) Persons who engage in the business of selling portieres, drapes, curtains, marquee curtains, slip covers, floor covering, tents, tarpaulins and other similar items incur Retailers' Occupation

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Tax liability when selling such items (with or without installation by the seller) to purchasers for use or consumption and not for resale whether such items are sold as stock or standard items or whether the seller produces such items on special order for the purchaser.

2) The same is true when custom-made Venetian blinds, window shades, awnings, screen doors, window screens, storm doors and storm windows are sold at retail "over-the-counter" without installation by the seller as a construction contractor under Section 130.1940(c) of this Part. This is true because such items, when produced on special order, serve substantially the same function as stock or standard items of tangible personal property which is sold at retail.

3) When sellers permanently affix tangible personal property, such as floor coverings, to real estate, they act as construction contractors and incur Use Tax, rather than Retailers' Occupation Tax. (For further information regarding the sales tax liabilities of construction contractors, see the Department's regulations on Construction Contractors and Real Estate Developers at 86 Ill. Adm. Code 130.1940 and Sales to Construction Contractors, Real Estate Developers and Speculative Builders at 86 Ill. Adm. Code 130.2075.)

b) Labor Charges

1) In computing Retailers' Occupation Tax liability on the retail sale of custom-made items, no deduction may be taken for the cost of labor involved in producing the finished item for sale. This is true whether such production labor is included in a lump sum price with the tangible personal property or whether such production labor is priced separately from the tangible personal property. The thing that is being sold is the finished item (drapes, carpeting, etc.), and the cost of labor involved in making such item is no more deductible than is the cost of labor that is involved in producing a stock or standard item for sale.

2) However, receipts from installation charges are deductible from total receipts in computing Retailers' Occupation Tax liability if such charges are contracted for by the seller and the purchaser separately from the selling price of the finished tangible personal property, but even receipts from installation charges are taxable if the installation charge is included in a lump sum price with the tangible personal property (see Section 130.450 of this Part).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2145 Vendors of Meals

a) Vendors of Meals -- When Liable For Tax

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- 1) Persons engaged in the business of selling meals to purchasers for use or consumption incur Retailers' Occupation Tax liability on their receipts from such sales. It is immaterial that no profit is realized from the operation of any such business if the seller is engaged in a commercial enterprise, or if the seller engages in activities which make him taxable under the terms of Section 130-2005 of this Part. It is also immaterial that the class of purchasers may be a limited one, such as the employees of a particular employer who operates a cafeteria or other dining facilities for the benefit of his employees.

- 2) Subsection (a)(1) ~~the foregoing Regulation~~ includes, but is not limited to, the following types of vendors:

- A) Hotels ~~Hotels~~;
- B) restaurants;
- C) caterers;
- D) boarding houses;
- E) concessionaires;
- F) nonprofit service organizations and institutions to the extent indicated in Section 130.2005(a), (b) and (c) of this Part, and similar enterprises when conducted with a view to profit to the extent indicated in Section 130.2005(c) of this Part;

- G) employers who operate dining facilities for the benefit of their employees, except to the extent noted in Section 130.2005(b) of this Part; and
- H) sellers of food and beverages, delivered in Illinois to airlines, for use in serving passengers on aircraft without a separate charge for the food or beverages being made by the airline, regardless of whether the airline may serve the food and beverages in Illinois or outside Illinois; sales of meals to airlines for use on their aircraft in serving crews, where the cost is deducted from a food allowance, are nontaxable sales for resale, but if the meals are delivered to the airline in Illinois, the airline incurs Retailers' Occupation Tax liability on its receipts (consideration in the form of compensation for service rendered) from reselling such meals to crews, regardless of whether the aircraft is in Illinois or outside Illinois when it serves such meals to its crew.

- b) Vendors of Meals to Organizations or Their Members
- 1) Effective August 1, 1961, when members of an organization meet at a hotel, restaurant or other place of business where food or drinks are sold and pay for any such items, the hotel, or other vendor of meals, is considered to be selling such tangible personal property directly to such members as users or consumers, and such sales shall be considered to be taxable. This is true even if the organization collects from the members and makes payment to the vendor, and even if the organization is permitted

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- to retain a portion of what it collects for its own purposes.
- 2) In this situation, the organization is deemed to be acting for the accommodation of all concerned and is not deemed to be standing in the role of a purchaser and reseller.

- 3) The measure of the tax is the amount received by the hotel, etc., for the tangible personal property which it furnishes.

- 4) The principles stated in this Section apply also when the tangible personal property that is being sold is something other than food and drinks, but this Section is concerned primarily with vendors of food and drinks.

- c) Cover Charges and Minimum Charges
- 1) Cover Charges

- A) Cover charges are not included in the taxable receipts of persons operating restaurants, hotels and other places of business which come within the Act, where such cover charges are made exclusively for the privilege of occupying space within such eating place, and where the payment of a cover charge by a patron does not entitle such patron to use or consume any food or beverage or other tangible personal property.

- B) In such an instance, the cover charge is a receipt on account of a service rendered, and does not accrue on account of the sale of tangible personal property at retail.

- 2) Minimum Charges

- A) The provisions regarding cover charges do ~~preceding statement does not~~ apply to so-called "minimum charges" which are made by night clubs, public eating places, private clubs or other retailers of food or beverages or both, and which entitle the persons paying such charges to use or consume some tangible personal property, such as food or beverages, without additional payment. The retailer's receipts from these charges are subject to Retailers' Occupation Tax. ~~the revision of Section 130-2145--is for clarification purposes only.~~

- B) Similarly, when a single charge is made for both entertainment and food and the charge for food is not separately stated on the customer's bill, the entire charge is subject to tax. For example, when a dinner theater charges \$50 for a show and includes food and beverages, the entire \$50 is subject to tax unless a separate charge is made for the food and beverages.

- C) However, minimum charges imposed by country clubs that must be paid regardless of whether the member purchases food or beverages are subject to tax only to the extent they are incurred for actual food or beverage purchases. (See *Aurora Country Club, Inc. v. Department of Revenue*, 50 Ill.App.3d 756, 365 N.E.2d 2299 (2d Dist. 1977).)

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in the business of selling tangible personal property at retail and are liable for Retailers' Occupation Tax transfer such property to others along with other tangible personal property or service for which a charge is made are selling tangible personal property to purchasers for purposes of resale and are not liable for Retailers' Occupation Tax when making such sales.

2) For example, the sale of match books to a dealer, who transfers such match books to customers along with cigarettes or cigars sold by the dealer to such customers, is a sale of the match books to the dealer for purposes of resale to such dealer. Other examples include posters, coffee mugs, pens, bumper stickers, and pins.

3) ~~Likewise, the sale of items to a theater--which--transfers--such items--at--prizes--to--theater--patrons--to--whom--a--charge--for--attending the--theater--is--made--is--a--sale--of--such--items--to--the--theater--owner for--purposes--of--resale--to--such--dealer.~~

- b) When Not Liable for Retailers' Occupation Tax
- 1) Persons who sell tangible personal property to purchasers who transfer such property to others along with other tangible personal property or service for which a charge is made are selling tangible personal property to purchasers for purposes of resale and are not liable for Retailers' Occupation Tax when making such sales.
 - 2) For example, the sale of match books to a dealer, who transfers each match books to customers along with cigarettes or cigars sold by the dealer to such customers, is a sale of the match books to the dealer for purposes of resale.
 - 3) Likewise, the sale of items to a theater which transfers such items as prizes to theater patrons to whom a charge for attending the theater is made is a sale of such items to the theater owner for purposes of resale.
 - 4) However, for information concerning the fact that the theater's purchase of such prizes for raffle as an incident to service is subject to the Service Occupation Tax, see Subpart A of the Service Occupation Tax Regulations.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2165 Veterinarians

- a) When Liable For Tax
- 1) When veterinarians sell items of tangible personal property, such as pet food, animal tags, pet collars, leashes, and the like, other than farm chemicals (see Section 130.1955 of this Part) to purchasers for use or consumption apart from their rendering of service as veterinarians, they incur Retailers' Occupation Tax liability. Veterinarians who sell items over-the-counter must be registered

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d) Mandatory Service Charges

Mandatory gratuities are not included in the taxable receipts of persons operating restaurants, hotels and other places of business which come within the Act, if such mandatory gratuity is added to banquet or dinner checks in the form of a percentage of the total bill, or as a flat rate, to the extent provided that ~~all of the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed to the employees who would normally have received tips had the service charge policy not been introduced.~~ (Section 2-5(15) of the Act) If any part of the service charges are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business, that part of the service charge is includable in gross receipts.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2156 Vendors of Steam

- a) When Liable for Retailers' Occupation Tax
- Persons who engage in the business of selling steam to purchasers for use or consumption and not for resale, incur Retailers' Occupation Tax liability on their receipts from such sales. For example, when steam heat energy is transferred to the purchaser and the condensate, which results when the steam loses its heat, is not returned to the seller of the steam heat energy, then Retailers' Occupation Tax liability is incurred.
- b) When Not Liable for Retailers' Occupation Tax
- Persons who are engaged in the business of transferring heat energy to purchasers using steam as the vehicle for that transfer, do not incur Retailers' Occupation Tax liability so long as no tangible personal property is transferred to the purchaser. This would be the case, for example, where the condensate, which results when the steam loses its heat, is returned to the seller.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.

- a) When Liable For Retailers' Occupation Tax
- 1) Persons engaged in the business of selling tangible personal property to purchasers who give such property away for premiums, advertising, prizes or for any other reason, apart from their sale of other tangible personal property or service, are engaged

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retailers. (See Subpart G of this Part.) Any item sold to a veterinarian who intends to resell the item shall be taxable unless the veterinarian provides the seller with a Certificate of Resale.

- b) When Not Liable For Tax
Veterinarians are engaged in a profession and primarily render service. To the extent to which they engage in such profession, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Act. Consequently, they are not required to remit Retailers' Occupation Tax measured by their receipts from engaging in such profession, including receipts from both services and tangible personal property transferred incident to those services.

c) Example
For example, if a veterinarian sells a pet diet product that is also available over-the-counter at pet supply retail outlets, the veterinarian incurs a Retailers' Occupation Tax liability on such sales. However, if a veterinarian transfers a pet diet product that is available only through prescription by a veterinarian and is not available over-the-counter, such transfer is subject to Service Occupation Tax liability.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 130.2170 Warehousemen

- a) When Liable For Tax

In cases in which warehousemen hold themselves out to the public as being engaged in the business of selling, to purchasers for use or consumption, secondhand furniture or other tangible personal property to which they have acquired title, such warehousemen, when they sell any such tangible personal property to purchasers for use or consumption, incur Retailers' Occupation Tax liability.

- b) When Not Liable For Tax

1) Warehousemen are engaged primarily in the business of moving, storing, packing and shipping tangible personal property belonging to other persons, and such activities constitute engaging in a service occupation. To the extent to which warehousemen engage in such service occupation, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Act and are not required to remit Retailers' Occupation Tax measured by any of their receipts from such activities.

- 2) When warehousemen, in order to satisfy warehousemen's liens for claims on account of moving, storage, or other service charges which have accrued, sell at auction tangible personal property belonging to other persons who are known or disclosed to the purchaser, such warehousemen are acting merely as agents for the

- owners of such property and are not themselves making sales within the meaning of the Act.
- 3) In case any person whose property is being sold by a warehouseman to a purchaser for use or consumption in order to satisfy a warehouseman's lien as described in subsection (b)(2) of this Section is engaged in the business of selling that type of tangible personal property to purchasers for use or consumption, the tax must be paid by the person whose property is thus sold.
- 4) For the status, under the Act, of agents who act for unknown or undisclosed principals, see Section 130.1915 of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 130. ILLUSTRATION A Examples of Tax Exemption Cards

These are samples of the Tax Exemption Cards being issued by the Department of State. Other diplomatic tax exemption cards will be invalid after February 1, 1986. Please see the back of each card for tax exemption information and individual Tax Exemption Number.

0-----1
 ° UNITED STATES
 ° DEPARTMENT OF STATE
 ° Tax Exemption Card
 0-----1
 ° MISSION OF
 ° Ruritania
 0-----1
 ° DATE OF BIRTH ° BVS COLOR ° PICTURE
 ° 07/07/57 ° BLUE
 0-----1
 ° HAIR COLOR ° WEIGHT ° HEIGHT ° SEX ° CARDS WITH GREEN
 ° BROWN ° 145 ° 72 ° M ° STRIPES exempt
 0-----1
 ° NAME ° the bearer from
 ° BOB, John Sample ° all sales taxes
 0-----1
 ° SEE REVERSE FOR EXEMPTION INFORMATION ° including taxes
 0-----1
 ° THIS CARD ENTITLES BEARER, WHOSE PHOTO ° on hotel rooms.
 ° APPEARS ON REVERSE, TO EXEMPTION FROM
 0-----1
 ° ALL SALES TAXES INCLUDING HOTEL ROOM TAXES
 0-----1
 ° EXPIRATION DATE ° TAX EXEMPTION NO.
 ° 07/15/87 ° RR 05 0100 01
 0-----1
 ° If found, Return To:
 ° Office of Foreign Missions
 ° U.S. Dept. of State
 ° Washington, D.C. 20520
 ° Return Postage Guaranteed
 0-----1

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0-----1
 ° UNITED STATES
 ° DEPARTMENT OF STATE
 ° Tax Exemption Card
 0-----1
 ° MISSION OF
 ° Ruritania
 0-----1
 ° DATE OF BIRTH ° BVS COLOR ° PICTURE
 ° 07/07/57 ° BLUE
 0-----1
 ° HAIR COLOR ° WEIGHT ° HEIGHT ° SEX ° CARDS WITH GREEN
 ° BROWN ° 145 ° 72 ° M ° STRIPES exempt
 0-----1
 ° NAME ° the bearer from
 ° BOB, Charles Sample ° all sales taxes
 0-----1
 ° SEE REVERSE FOR EXEMPTION INFORMATION ° including taxes
 0-----1
 ° THIS CARD ENTITLES BEARER, WHOSE PHOTO ° on hotel rooms.
 ° APPEARS ON REVERSE, TO EXEMPTION FROM
 0-----1
 ° ALL SALES TAXES INCLUDING HOTEL ROOM TAXES
 0-----1
 ° EXPIRATION DATE ° TAX EXEMPTION NO.
 ° 04/15/88 ° RR 04 0101 41
 0-----1
 ° If found, Return To:
 ° Office of Foreign Missions
 ° U.S. Dept. of State
 ° Washington, D.C. 20520
 ° Return Postage Guaranteed
 0-----1

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GRAPHIC MATERIAL

See printed copy of IAC for detail

- a) These are samples of the tax exemption cards issued by the U.S. Department of State to certain foreign government personnel and offices under the authority of the Foreign Missions Act (22 USC 4301 et seq.). The plastic cards, which are the size of credit cards, and have a hologram, are valid nationwide. Cards are used at the point of sale for exemption from State and local sales taxes and similar taxes normally charged to customers. Some cards have restrictions on tax-free purchases. Tax exemption cards are not valid for exemption from taxes on telephones, other utilities, or gasoline purchases. Cards are not transferable. Only the person whose photograph appears on the front side of the card may use it. Vendors may ask for additional identification such as a driver's license.

- b) Examples of tax exemption cards for personal purchases.

(Picture of Diplomat)	UNITED STATES DEPARTMENT OF STATE Personal Tax Exemption Card		
	MISSION: (Name of mission inserted here)		
	EXPIRATION DATE: 00/00/00	SEX: M	DOB: 00/00/00
	LAST NAME OF DIPLOMAT, FIRST NAME OF DIPLOMAT (Blue stripe here)		
EXEMPT FROM ALL SALES TAX			

BLUE STRIPE

Full tax exemption
on all personal
purchases

(Picture of Diplomat)	UNITED STATES DEPARTMENT OF STATE Personal Tax Exemption Card		
	MISSION: (Name of mission inserted here)		
	EXPIRATION DATE: 00/00/00	SEX: M	DOB: 00/00/00
	LAST NAME OF DIPLOMAT, FIRST NAME OF DIPLOMAT (Blue stripe here)		
EXEMPT FROM ALL SALES TAX			

YELLOW STRIPE

Full tax exemption
on all personal
purchases except
restricted category(ies)
identified on the face
of the card.

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LAST NAME OF DIPLOMAT, FIRST NAME OF DIPLOMAT
(Yellow stripe here) EXEMPTION NOT VALID FOR:
FOOD; CLOTHING; RESTAURANTS; SERVICE; HOTELS;
GROCERIES

- c) Mission tax exemption cards are issued to embassies, consulates, and international organizations for official purchases only and for the sole benefit of the mission identified on the face of the card. All purchases must be made in the name of the mission and paid for by mission check or credit card (not cash or personal check). Personal purchases are prohibited when using a mission tax exemption card.

- d) Examples of tax exemption cards for mission (official) business:

(Picture of Diplomat)	UNITED STATES DEPARTMENT OF STATE Mission Tax Exemption Card		
	MISSION: (Name of mission inserted here)		
	EXPIRATION DATE: 00/00/00	SEX: F	DOB: 00/00/00
	LAST NAME OF DIPLOMAT, FIRST NAME OF DIPLOMAT (Blue stripe here)		
EXEMPT FROM ALL SALES TAX			

BLUE STRIPE

Full tax exemption
on all official
purchases

(Picture of Diplomat)	UNITED STATES DEPARTMENT OF STATE Mission Tax Exemption Card		
	MISSION: (Name of mission inserted here)		
	EXPIRATION DATE: 00/00/00	SEX: F	DOB: 00/00/00
	LAST NAME OF DIPLOMAT, FIRST NAME OF DIPLOMAT (Yellow stripe here) TAX EXEMPTION NOT VALID FOR SALES UNDER \$350; HOTELS		

YELLOW STRIPE

Full tax exemption
on all official
purchases except
restricted category(ies)
identified on the face
of the card.

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- 1) Heading of the Part: Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3) Section Numbers: Proposed Action:
140.125 Amendment
- 4) Statutory Authority: 35 ILCS 115
- 5) A Complete Description of the Subjects and Issues Involved: P.A. 91-439 added provisions to the Service Occupation tax to expand the exemption afforded not-for-profit arts and cultural organizations. This regulation incorporates these changes. Also, the regulations reflect the provisions of P.A. 91-200, which provides an exemption for game birds purchased at specified hunting areas.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Melanie Jarvis
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not-for-profit arts and cultural organizations
- B) Reporting, bookkeeping or other procedures required for compliance: Must document the exemption from taxation

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- e) Examples of reverse of both mission and personal tax exemption cards.

NOT TRANSFERABLE

This card entitles bearer, whose photo appears on reverse, to nationwide exemption from state and local sales taxes, restaurant and similar taxes normally charged to the customer. Vendor may ask for additional identification

IF FOUND PLEASE RETURN TO
Office of Foreign Missions
U.S. Department of State
3507 International Place, N.W.
Washington, D.C. 20008-3034
202-895-3363

Return Postage Guaranteed
Monday through Friday
9:00 a.m.-4:00 p.m. EST
Rev. 08-95

f) Old format laminated cards are valid until the expiration date on the cards. The new yellow stripe card lists all restrictions on the tax exemption. This color will eventually replace all other color stripes except blue stripes. Until December 31, 2001 the following cards are valid and may be accepted by vendors:

1) Green Stripes. Full tax exemption on all purchases except restricted category(ies) identified on the face of the card.

2) Red Stripes. Full tax exemption on all purchases over a minimum amount identified on the face of the card.

3) Red/Green Stripes. Full tax exemptions on all purchases over a minimum amount identified on the face of the card. The exemption is not valid on purchases from restricted category(ies) listed on the face of the card.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

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AUTHORITY: Implementing the Service Occupation Tax Act [35 ILCS 115] and authorized by Section 39b30 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b30].

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 93267; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15480, effective September 10, 1990; amended at 15 Ill. Reg. 5834, effective April 5, 1991; amended at 18 Ill. Reg. 1550, effective January 13, 1994; amended at 20 Ill. Reg. 5379, effective March 26, 1996; amended at 20 Ill. Reg. 7008, effective May 7, 1996; amended at 20 Ill. Reg. 16211, effective December 16, 1996; amended at 24 Ill. Reg. _____, effective _____.

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SUBPART A: NATURE OF TAX

Section 140.125 Examples of Nontaxability

The tax does not apply to:

- a) sales of intangible personal property;
- b) sales of real property;
- c) sales of personal services as such;
- d) sales of tangible personal property which come within the protection of the Commerce Clause of the Constitution of the United States (see Subpart E of this Part);
- e) purchases of tangible personal property where the serviceman gives a valid exemption certificate to his supplier;
- f) the retail selling of tangible personal property which is taxable under the Retailers' Occupation Tax Act [35 ILCS 120] or the Use Tax Act [35 ILCS 105];
- g) a sale of tangible personal property for the purpose of resale apart from the purchaser's engaging in a service occupation;
- h) sales of tangible personal property as an incident to sales of service:
 - 1) to or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes (Section 2 of the Act);
 - 2) to or by any corporation, society, association, foundation or institution operated primarily for the recreation of persons aged 55 years or older which has no compensated officers or employees;
 - 3) to or by any governmental body (Section 2 of the Act);
 - 4) by any corporation, society, association, foundation or institution organized and operated as a not-for-profit service enterprise for the benefit of persons aged 65 years of age or older, only to the extent of purchases of personal property not purchased by the enterprise for the purpose of resale by the enterprise (Section 2 of the Act);
 - 5) to a not-for-profit Illinois county fair association for use in conducting, operating or promoting the county fair (Section 2 of the Act);
 - 6) to any not-for-profit music-or-dramatic arts or cultural organization that it which has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that which is organized and operated for the presentation or support of arts or cultural programming, activities, or services. These arts organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations of live-public-performances-of-musical-or-theatrical-works-on-a-regular-basis (Section 2 of the Act);
 - 7) In order to qualify for exemption, all the above listed

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- i) organizations must have been issued an active exemption identification number by the Department;
- j) the sale, employment and transfer of such tangible personal property as newsprint and ink for physical incorporation into newspapers or magazines;
- j) the incorporation of tangible personal property into real estate by a construction contractor, which activity constitutes a taxable "use" under the Retailers' Occupation Tax Act and the Use Tax Act, rather than the carrying on of a service occupation;
- k) the sale, employment and transfer, as an incident to a sale of service, of such tangible personal property as pollution control facilities and low sulphur dioxide coal fueled devices;
- l) sales of stock tonics, serums and other medicinal products to veterinarians for retransfer as an incident to service in caring for farm animals;
- m) sales of sprays and farm chemicals as an incident to service by persons engaged in the service occupation of spraying crops or applying farm chemicals for others;
- n) sale of either new or used farm machinery, equipment or replacement parts transferred as an incident to a sale of service for use in production agriculture or for use in state or federal agricultural programs;
- o) a sale or transfer of machinery and equipment used primarily in the process of manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges or similar items of no commercial value on special order for a particular purchaser, when the machinery or equipment is produced by the seller thereof for the manufacturer or the manufacturer's lessor on special order in such a way as to have made the applicable tax a service occupation tax or service use tax, rather than retailers' occupation tax or use tax. (Section 2 of the Act) The transfer of standard or stock parts in the repair of qualifying exempt manufacturing machinery and equipment is not exempt;
- p) a sale or transfer of graphic arts machinery and equipment, including repair and replacement parts used primarily for graphic arts production by means of printing or other processes or defined in Major Group 27 of the U.S. Standard Industrial Classification Manual (Section 2 of the Act);
- q) sales of oil field exploration, drilling and production equipment and individual replacement parts costing the purchaser \$250 or more;
- r) sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment and repair parts costing the

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- purchaser \$250 or more;
- s) a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed on, in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce (Section 4 of the Act);
- t) a sale or transfer of tangible personal property as an incident to the rendering of service for general carriers or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce (Section 2 of the Act);
- u) the sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is identified by the user to be used only for the production of ethyl alcohol that will be used for consumption of such fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale (Section 2 of the Act);
- v) sales by teacher-supervised student organizations affiliated with Illinois elementary and secondary schools;
- w) sales of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States or any foreign country and bullion, which shall mean gold, silver or platinum in a bulk state with a purity of not less than 980 parts per 1,000. In no circumstance shall items sold as jewelry or mounted for wear as jewelry qualify for this exemption.
- x) sales of modified or custom software are exempt. Sales of canned software in a service transaction would be subject to tax. Computer software means all types of software including operational, applicational, utilities, compilers, templates, shells and all other forms. Software is considered to be tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. The sale at retail or transfer of canned software intended for general or repeated use is taxable, including the sale of software which is subject to manufacturer licenses restricting the use or reproduction of the software. Tax applies to the entire charge made to the customer, including charges for all associated documentation and materials. Charges for updates and maintenance of software are considered to be sales of software. Charges for training, telephone assistance, installation and consultation are exempt if they are separately stated from the selling price of software;
- y) sales of semen used for artificial insemination of livestock for direct agricultural production. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing, and a statement that the semen purchased will be used

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- for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;
- z) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State or a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who meet within the declared disaster area. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the property purchased for donation, and a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;
- aa) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within six months after the disaster. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

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- bb) beginning July 20, 1999, game or game birds purchased incident to a sale of service at:
- 1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]).
 - 2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]), or
 - 3) a hunting enclosure approved through rules adopted by the Department of Natural Resources.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Service Use Tax
- 2) Code Citation: 96 Ill. Adm. Code 160
- 3) Section Numbers: Proposed Action:
150.110 Amendment
- 4) Statutory Authority: 35 ILCS 2505
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking describes the exemptions from Service Use Tax created by Public Act 91-200, effective July 20, 1999 (exempts the use of game or game birds purchased at a game breeding and hunting preserve area, exotic game hunting area, or at a hunting enclosure) and Public Act 91-439, effective August 6, 1999 (exempts the use of fuel in this State that was acquired outside of this State and brought into this State in the fuel supply tanks of locomotives engaged in freight hauling and passenger service for interstate commerce).
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Terry D. Charlton
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996
- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses involved in game breeding and hunting and out-of-State sellers of fuel to railroads.

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B) Reporting, bookkeeping or other procedures required for compliance:
Minimal recordkeeping required to document exempt sales.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 160

SERVICE USE TAX

Section

160.101 Nature of the Tax

160.105 Definitions

160.110 Kinds of Uses And Users Not Taxed

160.115 Collection Of The Service Use Tax By Servicemen

160.116 Persons Who Lease Tangible Personal Property to Exempt Hospitals

160.117 Persons Who Lease Tangible Personal Property to Governmental Bodies

160.120 Receipt For The Tax

160.125 Special Information For Taxable Users

160.130 Registration Of Servicemen

160.135 Serviceman's Return

160.140 Penalties, Interest And Procedures

160.145 Incorporation Of Illinois Service

Reference
160.150 Claims To Recover Erroneously Paid Tax--Limitations--Procedures

160.155 Disposition Of Credit Memoranda By Holders Thereof

160.160 Refunds

160.165 Interest

AUTHORITY: Implementing the Service Use Tax Act [35 ILCS 110] and authorized by Section 39b30 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b30].

SOURCE: Adopted May 21, 1962; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 8619, effective June 5, 1984; amended at 11 Ill. Reg. 5322, effective March 17, 1987; amended at 11 Ill. Reg. 9963, effective May 8, 1987; amended at 13 Ill. Reg. 9399, effective June 6, 1989; amended at 15 Ill. Reg. 5845, effective April 5, 1991; amended at 18 Ill. Reg. 1557, effective January 13, 1994; amended at 20 Ill. Reg. 7015, effective May 7, 1996; amended at 20 Ill. Reg. 16219, effective December 16, 1996; amended at 24 Ill. Reg. _____, effective _____.

Section 160.110 Kinds of Uses And Users Not Taxed

a) To prevent actual or likely multistate taxation, the tax shall not apply to the use of tangible personal property in this State under the following circumstances:

- 1) The use, in this State, of property acquired outside this State by a nonresident individual and brought into this State by such individual for his or her own use while temporarily within this State or while passing through this State;
- 2) the use, in this State, of property which is acquired outside

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this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase or use of such property, to the extent of the amount of such tax properly due and paid in such other state;

3) the temporary storage, in this State, of property which is acquired outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State.

b) Since the exemptions in subsections (a)(1), (2) and (3), immediately above, do not exist as far as the Service Occupation Tax is concerned, and since it would therefore serve no purpose to say that the exemptions exist for Service Use Tax purposes insofar as the serviceman is merely collecting Service Use Tax to reimburse himself for Service Occupation Tax on the same property, the Department believes that the legislative intention in these references to the acquisition of tangible personal property outside this State was to make the references apply to cases in which the only tax liability that could be involved is Service Use Tax liability. Therefore, the exemptions in subsections (a)(1), (2) and (3) above would not apply except when the tangible personal property is acquired outside Illinois by the purchaser in such a way that there is no Service Occupation Tax liability on the part of the serviceman in the same transaction.

c) The Service Use Tax does not apply to the use, in this State, of property which is acquired outside this State by a nonresident individual who then brings the property to this State for use here, and who shall have used the property outside this State for at least 3 months before bringing the property to this State.

d) Where a business that is not operated in Illinois, but which does operate in another state, is moved to Illinois or opens up an office, plant or other business facility in Illinois, such business shall not be taxed on its use, in Illinois, of used property which such business bought outside Illinois and used outside Illinois in the operation of such business for at least 3 months before moving such used property to Illinois for use here.

e) The Service Use Tax does not apply to the use of tangible personal property by any corporation, society, association, foundation or institution, organized and operated exclusively for charitable, religious or educational purposes, or by any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers and employees and which is organized and operated primarily for the recreation of persons 55 years of age or older, when purchased from a serviceman as an incident to a sale of service. However, effective July 1, 1987, the Service

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Use Tax will apply to the entities noted above unless such entities have an active exemption identification number issued by the Department. Effective March 17, 1965, purchases by State chartered banks and by Federal and State savings and loan associations for use, when the purchase is made from a serviceman as an incident to his sale of service, are subject to the Service Use Tax. Effective February 1, 1970, purchases by national banks for use, when the purchase is made from a serviceman as an incident to his sale of service, are also subject to the Service Use Tax, provided that such tax does not apply to property which is the subject matter of a written contract of purchase entered into by a national bank prior to September 1, 1969.

f) Beginning July 1, 1999, the Service Use Tax does not apply to the use, in this State, of game or game birds purchased incident to a sale of service at:

- 1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);
 - 2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]), or
 - 3) a hunting enclosure approved through rules adopted by the Department of Natural Resources.
- g) Beginning July 1, 1999, the Service Use Tax does not apply to the use, in this State, of fuel acquired outside of this State and brought into this State in the fuel supply tanks of locomotives engaged in freight hauling and passenger service for interstate commerce.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Special County Retailers' Occupation Tax For Public Safety

2) Code Citation: 86 Ill. Adm. Code 670

3) Section Numbers: Proposed Action:
670.130 Amendment

4) Statutory Authority: 55 ILCS 5/5-1006.5

5) A Complete Description of the Subjects and Issues Involved: P.A. 90-689 added provisions to the Counties Code at 55 ILCS 5/5-1006.5 to enable counties to impose, discontinue or change the rate of Special County Retailers' Occupation Taxes For Public Safety twice a year rather than once. This rulemaking brings the regulation for the Special County Retailers' Occupation Tax For Public Safety into conformance with the new statutory provisions.

6) Will this proposed rule replace an emergency rule currently in effect: No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part: No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Martha Mote
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Only counties

B) Reporting, bookkeeping or other procedures required for compliance:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Adoption of an ordinance or resolution is required.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUEPART 670
SPECIAL COUNTY RETAILERS' OCCUPATION TAX FOR PUBLIC SAFETY

Section 670.101	Nature of the Special County Retailers' Occupation Tax For Public Safety
670.105	Registration and Returns
670.110	Claims to Recover Erroneously Paid Tax
670.115	Jurisdictional Questions
670.120	Incorporation of Retailers' Occupation Tax Regulations by Reference
670.125	Penalties, Interest and Procedures
670.130	Effective Date

AUTHORITY: Implementing Section 5-1006.5 of the Special County Occupation Tax For Public Safety Law of the Counties Code [55 ILCS 5/5-1006.5] and authorized by Section 39b29 of the Civil Administrative Code of Illinois [20 ILCS 2305/39b29].

SOURCE: Adopted at 20 Ill. Reg. 13065, effective September 24, 1996; amended at 22 Ill. Reg. 14976, effective August 3, 1998; amended at 24 Ill. Reg. _____, effective _____.

Section 670.130 Effective Date

If a county imposes a tax under the Special County Occupation Tax For Public Safety Law (law), the county board may, by ordinance, discontinue or lower the rate of the tax. If the county board has lowered the tax rate or discontinued the tax, a referendum must be held in accordance with Section 5-1006.5 of the Law, and the referendum must pass prior to subsequent increases of the rate or reimposition of the tax in order to increase the rate of the tax or to reimpose the discontinued tax. An ordinance or resolution imposing or discontinuing or effecting a change in the rate of a tax imposed under the law shall either: be adopted and a certified copy thereof filed with the Department on or before the first day of April June, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of July January next following such adoption and filing; or be adopted and a certified copy filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following such adoption and filing. For this purpose, the date of the sale is deemed to be the date of the delivery of the property.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Special County Service Occupation Tax For Public Safety

2) Code Citation: 86 Ill. Adm. Code 680

3) Section Numbers: Proposed Action:
680.130 Amendment

4) Statutory Authority: 55 ILCS 5/5-1006.5

5) A Complete Description of the Subjects and Issues Involved: P.A. 90-689 added provisions to the Counties Code at 55 ILCS 5/5-1006.5 to enable counties to impose, discontinue or change the rate of Special County Service Occupation taxes for Public Safety twice a year rather than once. This rulemaking brings the regulation for the Special County Service Occupation Tax For Public Safety into conformance with the new statutory provisions.

6) Will this proposed rule replace an emergency rule currently in effect: No
7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part: No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Martha Mote
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Only counties.

B) Reporting, bookkeeping or other procedures required for compliance:

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

Adoption of an ordinance or resolution is required.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

Section
680.101
680.105
680.110
680.115
680.120
680.125
680.130

Nature of the Special County Service Occupation Tax For Public Safety
Registration and Returns
Claims to Recover Erroneously Paid Tax
Jurisdictional Questions
Incorporation of Service Occupation Tax Regulations by Reference
Penalties, Interest and Procedures
Effective Date

AUTHORITY: Implementing Section 5-1006.5 of the Special County Occupation Tax For Public Safety Law of the Counties Code [55 ILCS 5/5-1006.5] and authorized by Section 39b29 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b29].

SOURCE: Adopted at 20 Ill. Reg. 13073, effective September 24, 1996; amended at 22 Ill. Reg. 14930, effective August 3, 1998; amended at 24 Ill. Reg. _____, effective _____.

Section 680.130 Effective Date

If a county imposes a tax under the Special County Occupation Tax For Public Safety Law (Law), the county board may, by ordinance, discontinue or lower the rate of the tax. If the county board has lowered the tax rate or discontinued the tax, a referendum must be held in accordance with Section 5-1006.5 of the Law, and the referendum must pass, prior to subsequent increases of the rate or reimposition of the tax in order to increase the rate of the tax or to reimpose the discontinued tax. An ordinance or resolution imposing or discontinuing or effecting a change in the rate of a tax imposed under the Law shall either: be adopted and a certified copy thereof filed with the Department on or before the first day of April June, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of July January next following such adoption and filing; or be adopted and a certified copy filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following such adoption and filing. For this purpose, the date of the sale of service is deemed to be the date of the delivery, to the user, of the tangible personal property which the serviceman retransfers as an incident to service.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Use Tax

2) Code Citation: 86 Ill. Adm. Code 150

<u>Section Numbers:</u>	<u>Proposed Action:</u>
150.130	Amendment
150.135	Amendment
150.305	Amendment
150.306	Amendment
150.315	Amendment
150.335	New Section
150.336	New Section
150.405	Amendment
150.520	Repeal
150.701	Amendment
150.705	Amendment
150.710	Amendment
150.715	Amendment
150.730	Amendment
150.801	Amendment
150.901	Amendment
150.1001	Amendment
150.1401	Amendment
150.1415	Amendment

4) Statutory Authority: 20 ILCS 2505

5) A Complete Description of the Subjects and Issues Involved: These proposed changes have been submitted as part of the regulatory review project of the Governor's Office of Performance Review. They have been amended to reflect various statutory changes (Section 150.335 reflects Public Act 91-200 regarding exemption for game birds purchased at specified hunting areas; Section 150.336 reflects Public Act 91-313 regarding exemption for fuel purchased outside Illinois and brought into the State in the fuel supply tank of locomotives engaged in freight hauling and passenger service for interstate commerce; Section 150.1401 reflects Public Act 90-491 regarding protest periods governing claims for credit; Section 150.306 reflects Public Act 88-669 governing the 18-month limitation on demonstration use for aircraft and watercraft, as well as new provisions regarding returns filed on a transaction by transaction basis; Section 150.315 reflects Public Act 87-87 regarding non-resident exemptions from the Use Tax; Section 150.1001 reflects Public Act 88-660 regarding the statute of limitations under the Use Tax Act). In addition, the regulations have been amended to provide cross-references to related regulations and to clarify the intent of the rules through provision of examples. The rules regarding Use Tax as it applies to donors (Section 150.305) have been clarified. Section 150.306, which governs the demonstration use and interim use exemption, has been amended to clarify

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the factors used by the Department to determine whether a taxpayer is "primarily" a retailer for purposes of the interim use exemption.

- 6) Will this proposed rule replace an emergency rule currently in effect: No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part: No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not impose a state mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Jerilynn T. Gorden
Senior Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Retailers and other persons incurring Use Tax liability.
- B) Reporting, bookkeeping or other procedures required for compliance: General tax reporting preparation and reporting procedures required.
- C) Types of professional skills necessary for compliance: General bookkeeping skills.

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 150

USE TAX

SUBPART A: NATURE OF THE TAX

Section

150.101	Description of the Tax
150.105	Rate and Base of Tax
150.110	How To Compute Depreciation
150.115	How To Determine Effective Date
150.120	Effective Date of New Taxes
150.125	Relation of Use Tax to Retailers' Occupation Tax
150.130	Accounting for the Tax
150.135	How to Avoid Paying Tax on Use Tax Collected From the Purchaser

SUBPART B: DEFINITIONS

Section

150.201	General Definitions
	SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section

150.301	Cross References
150.305	Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable
150.306	Interim Use and Demonstration Exemptions
150.310	Exemptions to Avoid Multi-State Taxation
150.315	Non-resident Exemptions
150.320	Meaning of "Acquired Outside This State"
150.325	Charitable, Religious, Educational and Senior Citizens Recreational Organizations as Buyers
150.330	Governmental Bodies as Buyers
150.331	Persons Who Lease Tangible Personal Property to Exempt Hospitals
150.332	Persons Who Lease Tangible Personal Property to Governmental Bodies
150.335	Game or Game Birds Purchased at Game Breeding and Hunting Areas or Exotic Game Hunting Areas
150.336	Fuel Brought into Illinois in Locomotives

SUBPART D: COLLECTION OF THE USE TAX FROM USERS BY RETAILERS

Section

150.401	Collection of the Tax by Retailers From Users
150.405	Tax Collection Brackets
150.410	Tax Collection Brackets for a 2-1/4% Rate of Tax (Repealed)

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Tax Collection Brackets for a 2-1/2% Rate of Tax (Repealed)

Tax Collection Brackets for a 2-3/4% Rate of Tax (Repealed)

Tax Collection Brackets for a 3% Rate of Tax (Repealed)

Tax Collection Brackets for a 3-1/8% Rate of Tax (Repealed)

Tax Collection Brackets for a 3-1/4% Rate of Tax (Repealed)

Tax Collection Brackets for a 3-1/2% Rate of Tax (Repealed)

Tax Collection Brackets for a 3-3/4% Rate of Tax (Repealed)

Tax Collection Brackets for a 4% Rate of Tax (Repealed)

Tax Collection Brackets for a 4-1/8% Rate of Tax (Repealed)

Tax Collection Brackets for a 4-1/4% Rate of Tax (Repealed)

Tax Collection Brackets for a 4-1/2% Rate of Tax (Repealed)

Tax Collection Brackets for a 4-3/4% Rate of Tax (Repealed)

Tax Collection Brackets for a 5% Rate of Tax (Repealed)

Tax Collection Brackets for a 5-1/8% Rate of Tax (Repealed)

Tax Collection Brackets for a 5-1/4% Rate of Tax (Repealed)

Tax Collection Brackets for a 5-1/2% Rate of Tax (Repealed)

Tax Collection Brackets for a 5-3/4% Rate of Tax (Repealed)

Tax Collection Brackets for a 6% Rate of Tax (Repealed)

Optional 1% Schedule (Repealed)

Exact Collection of Tax Required When Practicable

Prohibition Against Retailer's Representing That He Will Absorb The

Tax

Display of Tax Collection Schedule (Repealed)

Methods for Calculating Tax on Sales of Items Subject to Differing

Tax Rates

SUBPART E: RECEIPT FOR THE TAX

Requirements

Section

150.601

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

Section

150.701

When and Where to File a Return

Use Tax on Items that are Titled or Registered in Illinois

Procedure in Claiming Exemption from Use Tax

Receipt for Tax or Proof of Exemption Must Accompany Application for

Title or Registration

Display Certificates for House Trailers

Issuance of Title or Registration Where Retailer Fails or Refuses to

Remit Tax Collected by Retailer from User

Direct Payment of Tax by User to Department on Intrastate Purchase

Under Certain Circumstances

Direct Reporting of Use Tax to Department by Registered Retailers

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

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Section 150.801 When Out-of-State Retailers Must Register and Collect Use Tax
 150.805 Voluntary Registration by Certain Out-of-State Retailers
 150.810 Incorporation by Reference

SUBPART H: RETAILERS' RETURNS

Section 150.901 When and Where to File
 150.905 Deduction for Collecting Tax
 150.905 Incorporation by Reference
 150.910 Itemization of Receipts from Sales and the Tax Among the Different
 150.915 States from Which Sales are Made into Illinois

SUBPART I: PENALTIES, INTEREST, STATUTE OF LIMITATIONS AND ADMINISTRATIVE PROCEDURES AND PROCEEDURES

Section 150.1001 General Information

SUBPART J: TRADED-IN PROPERTY

Section 150.1101 General Information

SUBPART K: INCORPORATION OF ILLINOIS RETAILERS' OCCUPATION TAX REGULATIONS BY REFERENCE

Section 150.1201 General Information

SUBPART L: BOOKS AND RECORDS

Section 150.1301 Users' Records
 150.1305 Retailers' Records
 150.1310 Use of Signs to Prove Collection of Tax as a Separate Item
 150.1310 Consequence of Not Complying with Requirement of Collecting Use Tax
 150.1315 Separately From the Selling Price
 150.1320 Incorporation by Reference

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section 150.1401 Claims for Credit--Limitations--Procedure
 150.1405 Disposition of Credit Memoranda by Holders Thereof
 150.1410 Refunds
 150.1415 Interest

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TABLE A Tax Collection Brackets

AUTHORITY: Implementing the Use Tax Act [35 ILCS 105] and authorized by Section 39b28 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b28].

SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, P. 553, effective June 1, 1980; amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11072, effective October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623, effective June 5, 1984; amended at 11 Ill. Reg. 6275, effective March 20, 1987; amended at 14 Ill. Reg. 6835, effective April 19, 1990; amended at 15 Ill. Reg. 5861, effective April 5, 1991; emergency amendment at 16 Ill. Reg. 14889, effective September 9, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1947, effective February 2, 1993; amended at 18 Ill. Reg. 1584, effective January 13, 1994; amended at 20 Ill. Reg. 7019, effective May 7, 1996; amended at 20 Ill. Reg. 16224, effective December 16, 1996; amended at 22 Ill. Reg. 21670, effective November 25, 1998; amended at 24 Ill. Reg. _____, effective _____.

SUBPART A: NATURE OF THE TAX

Section 150.130 Accounting for the Tax

- a) If the retailer is required or authorized to collect the Use Tax, then the purchaser must pay the tax to the retailer. However, the retailer's failure to collect the tax from the purchaser does not prevent the Department from collecting the tax directly from the purchaser whether the retailer's liability to remit the tax is to remit it in the form of Retailers' Occupation Tax or in the form of Use Tax. If the user purchases the tangible personal property at retail from a retailer, but does not pay the Use Tax to such retailer, the purchaser shall pay the Use Tax directly to the Department.
- b) The retailer must remit the Use Tax which he collects to the Department. However, since the Retailers' Occupation Tax and Use Tax work together in a complementary manner, the retailer may, but first reduce reduces the amount of Use Tax what he must remit in--this connection by the amount of Retailers' Occupation Tax (if any) which he is required to and does pay to the Department with respect to the same sale.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 150.135 How to Avoid Paying Tax on Use Tax Collected From the Purchaser

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- a) Taxable receipts, on the basis of which Use Tax must be collected and remitted to the Department in transactions that are subject to the Use Tax despite being exempt from the Retailers' Occupation Tax because of interstate commerce, do not include charges which are added to prices on account of the seller's duty to collect the Use Tax.
- b) If a retailer does not keep a detailed record for the return period of the Use Tax which he collects so as clearly to segregate these added charges from other receipts, it will at least in general be assumed that the Use Tax collected equals 6.25% of the receipts received in such return period from taxable sales if the retailer collects the Use Tax in accordance with the bracket schedule prescribed by the Department in Section 150.130 Table A and states such tax separately from the selling price of the tangible personal property, as the retailer is required to do.
- c) The retailer may eliminate the amount of Use Tax which he collects from the total receipts which he receives from taxable sales in arriving at his taxable receipts from such sales by subtracting the amount so collected from the purchaser as Use Tax, as shown by such retailer's books and records, or he may accomplish this result by subtracting, from the total receipts which he receives from taxable sales, the figure obtained by dividing such receipts by 106.25 and multiplying the result by 6.25.
- d) The seller will not be entitled to any deduction from total receipts because of having collected Use Tax from the purchaser if the seller, in collecting such tax, does not state it to the purchaser as a separate item from the selling price, unless the Department finds that it is not possible, under the facts of the case, for the retailer to collect the tax from the purchaser as a separate item from the selling price and that the retailer is therefore permitted to collect the tax by including it in the selling price of the tangible personal property. See Section 150.1310 of this Part for additional information regarding the circumstances under which tax need not be stated as a separate item.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section 150.305 Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable

- a) The limitation in the Act to the effect that the tangible personal property must be purchased at retail from a retailer excludes, from the Use Tax, the use of tangible personal property produced by the user himself or acquired by the user by way of a gift or in some manner other than by means of a purchase.

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- b) However, although the user is not taxable on the value of the finished product which he produces himself, such user is taxable on the purchase price of the tangible personal property that he purchases and incorporates into such finished product which he uses in this State, such purchase being a purchase at retail or a purchase for use.
- c) Although the donee in a gift situation is not a taxable user, the donor who purchases the property and gives it away makes a taxable use of the property when making such gift. For example, if a cellular phone company gives cellular phones to its customers as part of a sales promotion, it owes Use Tax on its cost price of the phones that are given away. In this situation, the cellular company, as donor, is considered to have used items by giving them away.
- d) The limitation that the purchase must be made at retail from a retailer for the Use Tax to apply also excludes, from the tax, the use of tangible personal property purchased from an isolated or occasional seller who is not engaged in the business of selling such tangible personal property. The exclusions discussed in this paragraph are necessary to make the Use Tax complementary to the Retailers' Occupation Tax.
- e) The Use Tax does not apply to the rental payments made by a lessee to a lessor. However, except as is noted in Section 150.306 of this Part, the lessor is legally the user of the property and is taxable on the purchase price thereof.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 150.306 Interim Use and Demonstration Exemptions

- a) Interim Use Exemption
- 1) Except as provided in subsection (c) of this Section, tangible ~~wangible~~ personal property purchased by a retailer for resale, and used by the retailer or his agents prior to its ultimate sale at retail, is exempt from Use Tax, provided that the tangible personal property is carried as inventory on the books of the retailer or is otherwise available for sale during the interim use period.
 - 2) Except as limited in subsection (c), the ~~the~~ leasing of tangible personal property by persons who are primarily engaged in the business of selling such property at retail is within the interim use exemption if such property is carried as inventory on the books of the retailer or is otherwise available for sale during the lease period. The interim use exemption is not available to persons who purchase tangible personal property with the intent to engage in the business of leasing such property and who sell such property only as an incident to their leasing activity. Persons who are primarily engaged in the business of leasing

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automobiles may not claim an interim use exemption when purchasing automobiles for use in their business even though such lessors are subject to Retailer's Occupation Tax on the sale of used automobiles pursuant to 35 ILCS 120/1c ~~§§1-Rev-Stat-1983 ch-120-par-440(e)~~. Motor vehicles of the first division as defined in Section 1-146 of the "Illinois Vehicle Code" [625 ILCS 5/1-146] ~~§§1-Rev-Stat-1983 ch-95-1/2-par-1-146~~ are exempt from Use Tax if the vehicles purchased are to be rented under lease terms of one year or less. (See 35 ILCS 105/3-5.10) ~~§§1-Rev-Stat-1983 ch-120-par-439-3 and Automobile-Renting Occupation and Use Tax Act-§§1-Rev-Stat-1983 ch-120-par-440-1-146 et seq.~~

3) In determining whether a taxpayer is "primarily" a retailer, the Department will examine only the activities of his Illinois operations. In addition, the Department will examine the activities of divisions of a corporate entity that are not separately registered with the Department. If divisions of a corporate entity are separately registered, however, their activities will not be examined in making this determination.

b) Demonstration Use Exemption

- 1) Except as provided in subsection (C), tangible tangible personal property purchased for resale and used by its owner for demonstration purposes is not subject to Use Tax.
- 2) The leasing of tangible personal property by a retailer to prospective buyers for the purpose of allowing them to ascertain whether or not the property suits their particular needs and for the purpose of trying to induce them to buy such property is a use for demonstration purposes, except as provided in subsection (C).
- 3) The demonstration use exemption may not be claimed for tangible personal property purchased for resale which is consumed or destroyed in order to promote or demonstrate the product available for sale or is given away to a prospective customer as an inducement to make future purchases. For example, a retail grocer offering free samples of pizza to customers in his store in order to promote the sale of a new frozen pizza would not be able to claim a demonstration use exemption on his purchase price of the pizza consumed in the promotion.
- 4) A vendor may not claim a demonstration use exemption on the use of a competing product, not available for sale by that vendor, even though the vendor uses the competing product to assist in the demonstration of the product which he sells. Nor may a vendor claim a demonstration use exemption on ancillary items used in the demonstration of a product (i.e., a microwave used to heat the pizza samples in the above example). The demonstration use exemption is available only to a vendor of the product being demonstrated.
- c) For watercraft or aircraft, if the period of demonstration use of

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interim use by the retailer exceeds 18 months, the retailer shall pay Use Tax on the original cost price of the aircraft or watercraft, and no credit for that tax is permitted if the aircraft or watercraft, and subsequently sold by the retailer. For purposes of this Section, the term "watercraft" means a Class 2, Class 3 or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act [625 ILCS 45/3-2], a personal watercraft, or any boat equipped with an inboard motor.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 150.315 Non-resident Exemptions

- a) The Use Tax does not apply to the use, in this State, of tangible personal property which is acquired outside this State by a nonresident individual who then brings the property to this State for use here, and who shall have used the property outside this State for at least 3 months before bringing the property to this State.
- b) Where a business that is not operated in Illinois, but which does operate in another state, is moved to Illinois or opens up an office, plant or other business facility in Illinois, such business shall not be taxed on its use, in Illinois, of used tangible personal property, other than items of tangible personal property that must be titled or registered with the State of Illinois or whose registration with the United States Government must be filed with the State of Illinois, that the business bought outside Illinois and used outside Illinois in the operation of such business for at least 3 months before moving such used property to Illinois for use here.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 150.335 Game or Game Birds Purchased at Game Breeding and Hunting Areas or Exotic Game Hunting Areas

Beginning July 20, 1999, Use Tax shall not apply to game or game birds purchased at:

- a) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);
- b) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or
- c) a hunting enclosure approved through rules adopted by the Department of Natural Resources.

(Source: Added at 24 Ill. Reg. _____, effective _____)

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Section 150.336 Fuel Brought into Illinois in Locomotives

Beginning July 29, 1999, Use Tax shall not apply to fuel acquired outside this State and brought into this State in the fuel supply tanks of locomotives engaged in freight hauling and passenger service for interstate commerce.

(Source: Added at 24 Ill. Reg. _____, effective _____)

SUBPART D: COLLECTION OF THE USE TAX FROM USERS BY RETAILERS

Section 150.405 Tax Collection Brackets

Retailers subject to any of the local taxes administered by the Department (e.g., Home Rule Municipal Retailers' Occupation Tax, Special County Retailers' Occupation Tax for Public Safety, Non-Home Rule Municipal Retailers' Occupation Tax, Home Rule Municipal, Home Rule County Retailers' Occupation Tax, Metro East Mass Transit District Retailers' Occupational Tax, County Water Commission Retailers' Occupation Tax or Regional Transportation Authority Retailers' Occupation Tax or a combination thereof) may use the charts in Table A to determine tax for the appropriate combined rate of tax, or multiply the transaction amount by the appropriate combined rate of tax, rounding up to the nearest unit.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 150.520 Display of Tax Collection Schedule (Repealed)

~~Every retailer required or authorized to collect the Use Tax shall publicly display the tax collection schedule applicable to his collections of the Use Tax from his customers:~~

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

Section 150.701 When and Where to File a Return

- a) If a the user who is not registered as a retailer under the Retailers' Occupation Tax Act purchases the tangible personal property at retail from a retailer, but does not pay the Use Tax to such retailer, the purchaser shall pay the Use Tax directly to the Department. Except as provided in subsection (b) of this Section, such Such remittance to the Department shall be made by the last day of the month following

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the month in which the user makes any payment on the selling price of the tangible personal property and shall be accompanied by a return which shall be made on a return form that the Department will provide on request.

- b) A user who is liable to pay Use Tax directly to the Department only occasionally and not on a frequently recurring basis, and who is not required to file returns with the Department as a retailer under Section 9 of the Use Tax Act, or under the Retailers' Occupation Tax Act, or as a registrant with the Department under the Service Occupation Tax Act [35 ILCS 115] ~~439-439-31-et-seq~~, ~~439-439-31-et-seq~~, ~~439-439-31-et-seq~~, need not register with the Department. However, if such a user has a frequently recurring direct Use Tax liability to pay to the Department, such user is required to register with the Department on forms prescribed by the Department and to obtain and display a certificate of registration from the Department. In that event, such registered user must file regular periodic tax returns, just as other registrants with the Department are required to do. However, if the purchaser's annual Use Tax liability does not exceed \$600, the purchaser may file the return on an annual basis on or before April 15 of the year following the year Use Tax liability was incurred.
- c) In general, the provisions of Subpart E of the Retailers' Occupation Tax Regulations, (86 Ill. Adm. Code 130)7 (including the authorization, under some circumstances, for quarterly tax returns and annual tax returns, but not the requirement of an annual information return) shall apply to returns of registered users under the Use Tax Act.
- d) Also, registered users under the Use Tax Act are subject to the provisions of the Retailers' Occupation Tax Regulations.
- e) When tangible personal property is purchased by a lessor, under a lease for one year or longer, executed or in effect at the time of purchase to an interstate carrier for hire, who did not pay the Use Tax to the retailer, such lessor (by the last day of the month following the calendar month in which such property reverts to the use of such lessor) shall file a return with the Department and pay the tax upon the fair market value of such property on the date of such reversion. This provision applies equally to owners, lessors or shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 150.705 Use Tax on Items that are Titled or Registered in Illinois

- a) Motor vehicles, as used in this Regulation, include passenger cars, trucks, busses, motorcycles and any kind of vehicle which is required

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to be titled under the Illinois Vehicle Code [625 ILCS/Ch.1] {~~Rev--Stat--1979--ch--95-1/2--par--1-140-et-seq7.~~ {~~Rev--Stat--1979--ch--95-1/2--par--1-140-et-seq7.~~

- b) Implement of husbandry means:
Every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm wagons, wagon trailers or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry provided that no farm wagon, wagon trailer or like vehicle having a capacity of more than 400 bushels or a gross weight of more than 36,000 pounds, shall be included hereunder. [625 ILCS 5/1-130] {~~Rev--Stat--1979--ch--95-1/2--par--1-140.~~ {~~Rev--Stat--1979--ch--95-1/2--par--1-140.~~

- c) Special mobile equipment means:
Every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch digging apparatus, well boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditches, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carriages and scrapers, power shovels and drag lines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached. [625 ILCS 5/1-191] {~~Rev--Stat--1979--ch--95-1/2--par--1-191.~~ {~~Rev--Stat--1979--ch--95-1/2--par--1-191.~~

- d) For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act [625 ILCS 45/3-2], a personal watercraft, or any boat equipped with an inboard motor.

- e) Where the purchaser is paying the Use Tax directly to the Department with respect to a motor vehicle, watercraft or an aircraft, or with respect to an implement of husbandry or special mobile equipment as to which an optional certificate of title will be applied for to the Illinois Secretary of State, such payment shall be made separately from any other Use Tax liability or any Retailers' Occupation Tax or other liability.

- f) On receipt of the tax, the Department will provide the user with a receipt if demanded by the user, but not otherwise, unless the tax payment relates to a motor vehicle (including a house trailer for which a display certificate is required), watercraft or an aircraft, in which case the Department will try to see that the user receives a receipt even if no request therefor is made. The same comments apply to an implement of husbandry or special mobile equipment for which an optional title is being sought.

- g) However, the user is urged not to fail to request a receipt from the Department when paying the Use Tax with respect to the selling price of a motor vehicle, watercraft or an aircraft, or with respect to an implement of husbandry or special mobile equipment for which an

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optional title is being sought, either to the Department or to a retailer. Such receipt will be needed in securing an Illinois title to the watercraft from the Department of Natural Resources; or to the motor vehicle, or implement of husbandry or special mobile equipment for which an optional title is being sought from the Illinois Secretary of State; or a certificate of registration for the aircraft from the Illinois Department of Transportation, Division of Aeronautics.

- h) When a purchaser pays the tax directly to the Department on a motor vehicle, watercraft or aircraft, or on an implement of husbandry or special mobile equipment for which the purchaser is seeking an optional title, so that the tax is being paid on a transaction by transaction basis, the purchaser should also send the Department a copy of the Bill of Sale or Dealer's Invoice relating to such property for examination.

- i) For information concerning the procedure to be followed in accounting for the tax when the purchaser buys a motor vehicle, watercraft or an aircraft (or an implement of husbandry or special mobile equipment for which the purchaser is going to apply for an optional title) at retail in Illinois and pays the tax to the retailer rather than directly to the Department, see Section 130.540 of the Retailers' Occupation Tax Regulations⁷ (86 Ill. Adm. Code 130).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 150.710 Procedure in Claiming Exemption from Use Tax

When a if the purchaser does not incur any Use Tax liability with respect to a particular transaction due to its status as an exempt entity (e.g., as where the purchaser is a church, charity, school or governmental body that has applied for and obtained an exemption identification number, see Section 130.2007), it the purchaser must provide present its exemption identification number {~~see--86--Ill--Adm--Code--130-2005--and--130-2007.~~ to the retailer at the time of making the purchase in order to document the exempt nature of the transaction {~~if--the--purchaser--is--paying--the--tax--to--the--retailer--and--the--retailer--is--accounting--for--the--tax--to--the--Department.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 150.715 Receipt for Tax or Proof of Exemption Must Accompany Application for Title or Registration

- a) The purchaser of a motor vehicle, watercraft, or an aircraft, or an implement of husbandry or special mobile equipment if an optional title is being sought, should pay the entire Use Tax at the time of purchasing the property, even if the purchaser pays the selling price

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in installments, thus enabling the purchaser to secure the receipt necessary to show that he has paid the Use Tax in full when applying to the Secretary of State or Department of Natural Resources for a title, or to the Division of Aeronautics for a certificate of registration.

- b) An application for an Illinois certificate of title for any motor vehicle or watercraft (or an implement of husbandry or special mobile equipment if an optional title is being applied for), or for an Illinois certificate of registration for any aircraft, whether purchased in Illinois or outside Illinois, and even if previously titled or registered in another state, must be accompanied by either an exemption determination from the Department of Revenue showing that no tax imposed pursuant to the Use Tax Act is owed by anyone with respect to such property, or a receipt from the Department of Revenue showing that any tax so imposed has been paid.

- c) In the absence of such a receipt for payment or determination of exemption from the Department, no certificate of title or certificate of registration, as the case may be, will be issued to such applicant.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 150-730 Direct Reporting of Use Tax to Department by Registered Retailers

If the user who must remit the Use Tax directly to the Department is also a registered retailer either under the Retailers' Occupation Tax Act or under the Use Tax Act, he shall (except in the case of motor vehicles, watercraft, aircraft, or implements of husbandry or special mobile equipment for which such user intends to apply for an optional title, which are to be reported separately) report the Use Tax information in the space provided for that purpose on the return which he files as a retailer.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section 150-801 When Out-of-State Retailers Must Register and Collect Use Tax

- a) A retailer who is registered under the Retailers' Occupation Tax Act need not obtain a separate Certificate of Registration under the Use Tax Act. However, a retailer maintaining a place of business in this State, if not registered under the Retailers' Occupation Tax Act, must apply to the Department for a Certificate of Registration on an application form furnished by the Department. Each such retailer shall list with the Department the names and addresses of all his agents operating in this State and the location of any and all of his

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distribution ~~or sales~~ houses, offices or other places of business in this State.

b) For a definition of "retailer maintaining a place of business in this State", see Section 150.201(1) of this Part.

- c) Every retailer collecting a place of business in this State must act as a Use Tax collector for this State. Examples of cases in which a retailer will be required to collect and remit the Use Tax though not incurring any Retailers' Occupation Tax liability with respect to the transaction are these:

- 1) Retailers who have Illinois retail outlets which are subject to the Retailers' Occupation Tax Act are required to collect and remit the Use Tax, as such, when shipping tangible personal property to the purchasers in Illinois from outside Illinois, in interstate mail transactions which have no connection with such Illinois outlets, even though such completely interstate mail transactions would not be subject to the Retailers' Occupation Tax.

- 2) Out-of-State retailers, who have any kind of place of business in Illinois or any kind of order-soliciting or order-taking representative either stationed in Illinois or coming into Illinois from time to time, must collect and remit the Use Tax, as such, from Illinois purchasers for use even though the seller is not required to pay Retailers' Occupation Tax when he does nothing in Illinois except to solicit orders.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

SUBPART H: RETAILERS' RETURNS

Section 150-901 When and Where to File

- a) Every retailer required or authorized to collect the Use Tax must file a return each month by the twentieth day of the month covering the preceding calendar month, except when the retailer is authorized to file tax returns on a quarterly or annual basis as hereinafter provided. The Department has combined the retailers' Use Tax return form with the Retailers' Occupation Tax return form.
- b) Where the tangible personal property is sold under a conditional sales contract or under any other form of sale wherein the payment of the principal sum or a part thereof is extended beyond the close of the return period for which the return is filed, the retailer, in collecting the tax, may collect, for each return period, only the tax applicable to that part of the selling price actually received during such return period.

- c) In his regular monthly, quarterly or annual return, each retailer shall also include the total amount of Use Tax due upon the purchase price of tangible personal property (other than a motor vehicle,

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watercraft or aircraft on which the tax is to be paid separately from the regular monthly, quarterly or annual return) purchased by him at retail from a retailer, but as to which such tax was not collected by the vendor from the retailer filing such return, and such retailer shall remit the amount of such tax to the Department when filing such return.

- d) If the retailer files his Retailers' Occupation Tax returns on the gross sales basis, rather than on the gross receipts basis, he will be required to report the Use Tax information that he includes in his returns on the basis of gross sales (or on the basis of gross purchases in the case of reporting purchases for the retailer's use). If the retailer's average monthly tax liability to the Department does not exceed \$100-99, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.
- e) If the retailer's average monthly tax liability to the Department does not exceed \$50-99, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year.
- g) Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.
- h) Notwithstanding any other provision in this Regulation concerning the time within which a retailer may file his return, in the case of any retailer who ceases to engage in a kind of business which makes him responsible for filing returns under this Regulation, such retailer shall file a final return under this Regulation with the Department not more than one month after discontinuing such business.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART I: PENALTIES, INTEREST, STATUTE OF LIMITATIONS AND ADMINISTRATIVE
PROCEDURES AND-PREEDURES

Section 150.1001 General Information

All civil penalties, provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation (except that these apply from the date when the tax is due rather than from the date when the gross receipts are received and except that, in the case of a failure to file a return required by the Act, no notice of tax liability shall be issued on and after July 1 and January 1

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covering tax due with that return during any month or period more than 6 years before that July 1 or January 1, respectively), are the same under the Use Tax Act as under the Illinois Retailers' Occupation Tax Act. For information concerning civil penalties and interest see the Uniform Penalty and Interest Act (35 ILCS 735/3) and 86 Ill. Adm. Code 700. For information concerning criminal penalties, see Section 14 of the Use Tax Act.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section 150.1401 Claims for Credit -- Limitations -- Procedure

a) When Purchasers May File Claims

If it shall appear that an amount of tax or penalty or interest has been paid in error under the Use Tax Act to the Department by a purchaser, as distinguished from the retailer, whether such amount be paid through a mistake of fact or an error of law, such purchaser may file a claim for credit with the Department.

- b) When Retailers May File Claims -- Unjust Enrichment Prohibited
- 1) If it shall appear that an amount of tax or penalty or interest has been paid in error to the Department under the Use Tax Act by a retailer who is required or authorized to collect and remit the Use Tax, whether such amount be paid through a mistake of fact or an error of law, such retailer may file a claim for credit with the Department, provided that no credit shall be allowed for any amount paid by any such retailer unless it shall appear that he bore the burden of such amount and did not shift the burden thereof to anyone else (as in the case of a duplicated tax payment which the retailer made to the Department and did not collect from anyone else), or unless it shall appear that he or his legal representative has unconditionally repaid such amount to his vendee:

- A) who bore the burden thereof and has not shifted such burden directly or indirectly in any manner whatsoever;
- B) who, if he has shifted such burden, has repaid unconditionally such amount to his own vendee, and
- C) who is not entitled to receive any reimbursement from any other source than from his vendor, nor to be relieved of such burden in any other manner whatsoever.
- 2) If it shall appear that an amount of tax has been paid in error under the Use Tax Act by the purchaser to a retailer, who retained such tax as reimbursement for his tax liability on the same sale under the Retailers' Occupation Tax Act, and who remitted the amount involved to the Department under the Retailers' Occupation Tax Act, whether such amount be paid through a mistake of fact or an error of law, the procedure for

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recovering such tax shall be that prescribed in Sections 6, 6a, 6b and 6c of the Retailers' Occupation Tax Act.

- c) Time Limit On The Filing Of Claims
As to any claim for credit filed with the Department on and after January 1 but on or before June 30 of any given year, no amount of tax penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Use Tax Act) more than 3 years prior to such January 1 shall be credited, and as to any such claim filed on and after July 1 but on or before December 31 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Use Tax Act) more than 3 years prior to such July 1 shall be credited or refunded, except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability as provided in Section 4 of this Act, such claim may be filed at any time prior to the expiration of the period agreed upon. [435 ILCS 120/41 ftt--Rev.-Stat.-1989--ch-120--par-44b]
- d) Department. No claim shall be allowed for any amount paid to the Department, whether paid voluntarily or involuntarily, if paid in total or partial liquidation of an assessment which had become final before the claim for credit to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment, order or decree of court.

- d) Procedure For Filing Of Claims
1) Claims for credit shall be prepared and filed upon forms provided by the Department. Where the claimant is a corporation, the claim filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.
2) A claim for credit shall be considered to have been filed with the Department on the date upon which it is received by the Department.
3) Upon receipt of any claim for credit filed under the Act, any officer or employee of the Department, authorized in writing by the Director of Revenue to acknowledge receipt of such claims on behalf of the Department, shall execute on behalf of the Department, and shall deliver or mail to the claimant or his duly authorized agent, a written receipt, acknowledging that the claim has been filed with the Department, describing the claim in sufficient detail to identify it and stating the date upon which the claim was received by the Department.
4) Such written receipt shall be prima facie evidence that the Department received the claim described in such receipt and shall be prima facie evidence of the date when such claim was received by the Department.
5) In the absence of such a written receipt, the records of the Department as to when the claim was received by the Department, or as to whether or not the claim was received at all by the

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Department, shall be deemed to be prima facie correct upon these questions in the event of any dispute between the claimant (or his legal representative) and the Department concerning these questions. (See Section 19 of the Act.)

- e) Procedure After Filing of Claims
1) The Department will examine each claim for credit as soon as practicable after such claim is filed and will notify the claimant (or his legal representative, if the claim is filed by such legal representative, or if the claimant has died or become incompetent and such legal representative has notified the Department of his appointment and qualification as such legal representative, or if the Department, on its own motion, has substituted such legal representative in the proceeding for the deceased or incompetent claimant) of its Tentative Determination of the amount of credit, if any, to which the claimant or his legal representative is entitled.
2) If such claimant, or the legal representative of a deceased or incompetent taxpayer, shall, within 60 days after the Department's Notice of Tentative Determination of Claim, file a protest thereto and request a hearing thereon, the Department shall give notice to such claimant, or to the legal representative of a deceased or incompetent taxpayer, of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of the Act, and pursuant thereto shall issue its Final Determination of the amount of credit, if any, found to be due as a result of such hearing, to such claimant, or to the legal representative of a deceased or incompetent taxpayer.
3) If a protest to the Department's Notice of Tentative Determination of Claim is not filed within 60 days and a request for a hearing thereon is not made as hereinabove provided in subsection (e)(2), the said Notice shall thereupon become and operate as a Final Determination. (See Section 20 of the Act.)
f) Use of Credit Memoranda to Satisfy Prior Rights of Department
1) If, following the above procedure, a credit is found to be due, as evidence thereof a credit memorandum for such amount shall be issued in the name of the claimant. If there is an established unpaid assessment or an admitted unpaid liability under the Use Tax Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act, or under a local Retailers' Occupation Tax or Service Occupation Tax administered by the Department against the claimant, or unpaid penalty, or unpaid interest, the amount of the credit shall be credited against the tax or penalty or interest due. If the credit is in an amount less than that of the unpaid liability, it shall be applied pro tanto.
2) If the amount of the credit exceeds that of the unpaid liability, after crediting an amount sufficient to liquidate or cancel out

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such unpaid liability, a new credit memorandum shall be issued for an amount representing the difference between that of the original credit found to be due and that of the liability liquidated or paid as aforesaid, and such new credit memorandum shall be delivered to the person entitled to receive delivery thereof, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Use Tax Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act, or under a Local Retailers' Occupation Tax or Service Occupation Tax administered by the Department.

- 3) If a proceeding to establish such an unpaid liability is pending, the credit memorandum shall be held by the Department until such proceeding is concluded; and if such proceeding results in the issuance of an assessment which becomes final, the credit shall be applied by the Department, to the extent which may be necessary, in liquidation of such assessment, or any interest that may accrue thereon, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of such liability), shall be issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery thereof.

- 4) If a taxpayer is notified that due to overpayments, a verified credit balance is available, the taxpayer may file a claim for credit.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 150.1415 Interest

- a) Any credit or refund that is allowed under the Act shall bear interest at the rate of 1½ per month or fraction thereof from the date when the erroneous payment for which the credit or refund is being allowed was made to the Department until the credit memorandum is issued or the refund is paid, until January 1, 1994. Interest shall not be paid on claims filed after the effective date of the Uniform Penalty and Interest Act and 86 Ill. Adm. Code 700 except such interest which is paid in accordance with Section 3-2 of the Act. (Section 3-9 of the Uniform Penalty and Interest Act) [35 ILCS 735/3-9]
- EXAMPLE: A taxpayer files a claim for credit with the Department on January 15, 1994 for an overpayment of Use Tax. The overpayment occurred in October 1992 when the taxpayer self-assessed tax on a purchase of manufacturing machinery and equipment from an unregistered out-of-state retailer and then remitted the tax directly to the Department. The credit memorandum is issued on June 15, 1994. Interest shall be paid at the rate of 1½ per month for the period from

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October 1992 through December 31, 1993; and at the semiannually adjusted interest rate imposed pursuant to the Act and these rules from January 1, 1994 through June 15, 1994, the date on which the credit memorandum was issued by the Department.

- b) No interest will be allowed if the overpayment is found by the Department to have been made deliberately for the purpose of drawing interest, or if the overpayment is ascertained not to have been bona fide for some other reason.

- c) When a claim that is allowed is paid by means of a credit memorandum ~~instead of by means of a cash refund~~, the claim will be considered to have been paid when the credit memorandum is issued by the Department to the claimant, and no interest will be allowed or paid by the Department for any period subsequent to that, even if the claimant does not use or assign the credit memorandum immediately after it is issued.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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1) Heading of the Part: General Grant Programs

2) Code Citation: 23 Ill. Adm. Code 1001

3) Section Numbers: Adopted Action:

1001.10	New Section
1001.20	New Section
1001.30	New Section
1001.40	New Section
1001.50	New Section

4) Statutory Authority: Implementing and authorized by Section 9.05, 9.09 and 9.17 of the Board of Higher Education Act [110 ILCS 205/9.05, 9.09 and 9.17].

5) Effective Date of Rules: February 14, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these rules contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 1, 1999 at 23 Ill. Reg. 11801

10) Has JCAR issued a Statement of Objection to these rules? No

11) Difference between proposal and final version: The following additional changes were made at the request of the Joint Committee on Administrative Rules' staff:

In Section 1001.20, added the following definition: "Other Sources of Funding" means those grant funds provided through entities outside of State and national government that are not appropriated (e.g., interagency agreement, foundations, associations, businesses or charities)."

At the end of Section 1001.30(b), deleted "Grants shall be allocated in a fair and equitable manner."

In Section 1001.50, added "a)" before "Within" and "b)" before "Recipients". Also, at the end of 1001.50 (b), added the language "as set forth in the statute, administrative rules, or grant agreement, if applicable" at the end of the last line.

12) Have all the changes agreed upon by the agency and JCAR been made as

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13) Will these rules replace emergency rules currently in effect? No. The corresponding emergency rules have expired.

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rules: The rules establish written procedures for the administration and allocation of appropriations made to the Board of Higher Education for purposes authorized solely by the language contained in the appropriation. In some instances, both the grant recipient and the purpose are specified. These are designated grants. In other instances, the appropriation language specifies the recipient but not the purpose.

16) Information and questions regarding these adopted rules shall be directed to:

Carolyn Lorton
 Illinois Board of Higher Education
 431 East Adams Street, Second Floor
 Springfield, Illinois 62701
 217/557-7343 or lorton@bhe.state.il.us

The full text of the adopted rules begins on the next page:

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1001

GENERAL GRANT PROGRAMS

Section

1001.10 Purpose

1001.20 Definitions

1001.30 Grant Amounts and Allocations

1001.40 Grant Requirements

1001.50 Audit Requirements and Guidelines

AUTHORITY: Implementing and authorized by Sections 9.05, 9.09 and 9.17 of the Board of Higher Education Act (110 ILCS 205/9.05, 9.09 and 9.17).

SOURCE: Emergency Rules adopted at 23 Ill. Reg. 11982, effective September 15, 1999, for a maximum of 150 days; emergency expired February 11, 2000; adopted at 24 Ill. Reg. 99 54, effective FEB 14 2000.

Section 1001.10 Purpose

This Part provides for administration of, and is applicable only to, general grants from the Board of Higher Education when the Board receives an appropriation or other funds for which there is no specific authorizing statute and only a general purpose is included in the appropriation.

Section 1001.20 Definitions

"Board" means the Illinois Board of Higher Education.

"Designated Grant" means a grant funded by an appropriation or other source which appropriation or other source specifies the recipient of the grant and the purpose of the grant.

"Grant Period" means the period ending two years after the date that either the Board or the recipient signs a grant agreement, whichever is later.

"Non-Designated Grant" means a grant funded by an appropriation or other source which appropriation or other source specifies the recipient of the grant but does not specify the purpose of the grant.

"Other Sources of Funding" means those grant funds provided through entities outside of State and national government that are not appropriated (e.g., interagency agreement, foundations, associations,

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businesses or charities).

"Recipient" means the institution of higher education or other entity, public or private, which institution of higher education or other entity, public or private, is designated by an appropriation or other source to receive a grant, or means a class of institutions that is designated by an appropriation or other source to receive a grant.

Section 1001.30 Grant Amounts and Allocations

Grant amounts and allocations shall be made as follows:

- a) Where the appropriation or other funding source specifies a specific amount for a recipient or recipients, the grant amount shall be that sum specified by the appropriation or other funding source.
- b) Where the appropriation appears to leave discretion in the allocation of grant funds to the Board, the Board shall determine the intent of the Governor and the General Assembly in passing the legislation and allocate grants accordingly. If that intent cannot be determined, the Board shall determine eligibility for the grants in accordance with their stated purpose as specified by the appropriation or other funding source and shall notify all potentially eligible recipients prior to making grants.
- c) In those cases where the appropriation or other funding source specifies a specific amount for a class of recipients, the grant amounts shall be determined by the method specified by the appropriation or other funding source, or if no method is specified, then the grant funds shall be allocated equally among all eligible recipients in the class, provided that such recipients sign a grant agreement, if required.

Section 1001.40 Grant Requirements

- a) A recipient of a non-designated grant shall not be required to execute a grant agreement in order to receive grant funds.
- b) A recipient of a designated grant must execute a grant agreement with the Board that:
 - 1) Must be executed by the authorized chief executive officer of the recipient within 60 days after receipt of the proposed grant agreement from the Board;
 - 2) Must contain a representation by the recipient that it will expend all grant funds in accordance with the requirements of the appropriation, the funding source and the grant agreement;
 - 3) Must contain a provision that the recipient will refund any grant funds that the recipient was not eligible to receive or that were not spent in accordance with this Part;
 - 4) Must contain a provision that the recipient will expend and disburse all grant funds, except for the audit fee, within the grant period;

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- 5) Must contain a provision that the recipient will contract with an external auditor who is licensed as a public accountant by the Illinois Department of Professional Regulation to conduct an audit of grant expenditures.
- c) Designated grant funds may not be used to reimburse a recipient for obligations or expenditures prior to the date of the grant agreement, except that otherwise eligible expenditures that occur after the effective date of any appropriation may be reimbursed from grant funds.
- d) Designated grant funds may be distributed by the Board to a recipient prior to the expenditure or obligation by the recipient.
- e) For grants of less than \$250,000, interest earned by the recipient may be retained by the recipient since the cost of accounting for the interest or allocating the interest to principal is deemed significant in terms of the amount of interest to be received. For grants of \$250,000 and more, interest earned by the recipient must be accounted for and interest earned shall become a part of the grant principal and used only for those purposes authorized by the grant agreement. For grants over \$250,000, the Board may pay out such grants in installments, with each installment taking into account the purpose of the grant and the rate of anticipated expenditure of the grant funds by the recipient.
- f) For designated grants, grant agreements shall comply with the Grant Funds Recovery Act [30 ILCS 705].

Section 1001.50 Audit Requirements and Guidelines

- a) Within 120 days after the end of the grant period, the recipient shall submit a schedule of budgeted and actual grant expenditures audited by an external auditor who is licensed as a public accountant by the Illinois Department of Professional Regulation. The audit shall include an opinion by the auditor on the schedule of budgeted and actual grant expenditures and assurance that grant funds were expended in conformance with the purpose of the grant as included in the appropriation, or other funding source, and the grant agreement. Any funds not so expended shall be refunded to the Board. Any recipient that fails to submit an audit shall refund the entire grant amount to the Board.
- b) Recipients of \$25,000 or less in grant funds may submit a statement signed by the chief executive officer of the recipient in lieu of an audit. Such verified statement shall include a schedule of budgeted and actual expenditures and shall represent that grant funds have been used for the purpose contained in the appropriation, or other funding source, and the grant agreement. The verified statement shall further state that the recipient has complied with all requirements with respect to the grant as set forth in the statute, administrative rules, or grant agreement, if applicable.

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- 1) Heading of the Part: Graduation Incentive Grants
- 2) Code Citation: 23 Ill. Adm. Code 1002
- 3) Section Numbers:

1002.10	Adopted Action:
1002.20	New Section
1002.30	New Section
1002.40	New Section
1002.50	New Section
- 4) Statutory Authority: Implementing and authorized by Section 9.27 of the Board of Higher Education Act (110 ILCS 205/9.27)
- 5) Effective Date of Rules: February 14, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 29, 1999, 23 Ill. Reg. 13174
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Difference between proposal and final version: In table of contents, corrected Section numbers to "1002".
In Section 1002.10, did not italicize "a designated time period" and added "[110 ILCS 205/9.28(a)]".
In Section 1002.20, italicized language from "which" to "within" and added ILCS cite.
In Section 1002.30(a), did not italicize "a designated time period" and added ILCS cite; in (b), changed text to read "Individual university grants will be based upon the total allocation for graduation incentive grants divided by the total number of eligible students statewide.".
In Section 1002.40(a)(6), omitted "and"; in (a)(7), changed period to "; and".
In Section 1002.50(a), fourth line, changed "based were" to "based was".

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12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace emergency rules currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: These rules provide for the administration of grants to public universities that offer their undergraduate students contracts under which the university commits itself to provide the courses, academic programs, and support services necessary to enable the contracting students to graduate with a baccalaureate degree within a designated time period.

16) Information and questions regarding these adopted rules shall be directed to:

Carolyn Lorton
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, Illinois 62701
217/557-7343 or lorton@ibhe.state.il.us

The full text of the adopted rules begins on the next page:

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NOTICE OF ADOPTED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1002

GRADUATION INCENTIVE GRANTS

- Section
1002.10 Purpose
1002.20 Definitions
1002.30 Grant Eligibility and Grant Allocation
1002.40 Grant Application Requirements
1002.50 Verifications and Audit

AUTHORITY: Implementing and authorized by Section 9.27 of the Board of Higher Education Act [110 ILCS 205/9.27].

SOURCE: Emergency rulemaking adopted at 23 Ill. Reg. 13248, effective October 18, 1999, for a maximum of 150 days; adopted at 24 Ill. Reg. ~~33 59~~, effective FEB 14 2000.

Section 1002.10 Purpose

This Part provides for the administration of incentive grants to public universities that offer their undergraduate students contracts under which the university commits itself to provide the courses, academic programs, and support services necessary to enable the contracting students to graduate with a baccalaureate degree within a designated time period. [110 ILCS 205/9.28(a)]

Section 1002.20 Definitions

"Board" means the Illinois Board of Higher Education.

"Contract" means a written agreement between a public university and an undergraduate student in which the university commits itself to provide the courses, programs, and support services necessary to enable the student to graduate with a baccalaureate degree within a designated time period. [110 ILCS 205/9.28(a)]

"Designated time period" means not more than four years for an incoming freshman and not more than two years for an incoming community college student.

"Eligible students" means students enrolled on the first day of the fourth full week of classes of the current fall term who have a valid contract with the university.

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"Public university" means Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northwestern Illinois University, Northern Illinois University, the campuses of Southern Illinois University, the campuses of the University of Illinois, or Western Illinois University.

Section 1002.30 Grant Eligibility and Grant Allocation

- a) *Public universities that offer their undergraduate students contracts under which the university commits itself to provide the courses, programs, and support services necessary to enable the contracting students to graduate with a baccalaureate degree within a designated time period are eligible to apply for a grant. [110 ILCS 205/9.28(a)]*
- b) Individual university grants will be based upon the total allocation for graduation incentive grants divided by the total number of eligible students statewide.

Section 1002.40 Grant Application Requirements

Grant application materials may be obtained from the Illinois Board of Higher Education, 431 East Adams Street, Second Floor, Springfield, Illinois 62701-1418. Applications should be submitted to the Graduation Incentive Grant Program, Illinois Board of Higher Education, at the same address. For State fiscal year 2000 grants, applications must be received at the Board by November 12, 1999. In subsequent years, applications must be received at the Board by the second Friday in October.

- a) Grant applications shall contain, at a minimum:
 - 1) A copy of the contract of the applicant university;
 - 2) The number of eligible students;
 - 3) A listing of the specific requirements of the graduation contracts offered by the university;
 - 4) A listing of the support services provided by the university to the contracting students;
 - 5) The cost of administering the program for the previous fiscal year;
 - 6) The audit of the previous fiscal year grant as specified in Section 1002.50;
 - 7) Completion rates of previous students enrolled in the program; and
 - 8) The intended use of graduation incentive grant funds.
- b) Reductions and Refunds
 - 1) A reduction will be made in the amount of an institution's grant when the enrollment audit from the previous fiscal year identifies an overpayment made for the previous fiscal year grant.
 - 2) A refund to the State will be required if any institution that does not continue to participate in the program when the enrollment audit from the previous fiscal year identifies an

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overpayment made for the previous fiscal year grant or when no enrollment audit is submitted.

- 3) Underpayments of a previous fiscal year's grant revealed by an enrollment audit shall not be made to an institution in subsequent year grants.

Section 1002.50 Verifications and Audit

- a) Recipients of \$25,000 or less in grant funds may submit a statement signed by the chief executive officer of the recipient in lieu of an audit. That statement shall verify that the institution received the grant funds indicated, that the stated number of students on which the grant was based was enrolled and entered into a graduation contract agreement with the institution at the time specified, and that the recipient has complied with all requirements with respect to the grant.
- b) Recipients of more than \$25,000 shall contract with an external auditor who is registered as a public accountant by the Illinois Department of Professional Regulation. That auditor shall verify that the institution received the grant funds indicated, that the stated number of students on which the grant was based were enrolled and entered into a graduation contract agreement with the institution at the time specified, and that the recipient has complied with all requirements with respect to the grant. A copy of that audit shall be provided to the Board at the time of application for universities applying for subsequent grants or by the application due date for those universities not applying for subsequent grants.

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- 1) **Heading of the Part:** State Matching Grant Program
- 2) **Code Citation:** 23 Ill. Adm. Code 1038
- 3) **Section Numbers:**
 - Adopted Action:
 - 1038.10 Amendment
 - 1038.20 Amendment
 - 1038.30 Amendment
 - 1038.40 Amendment
 - 1038.50 Amendment
 - 1038.60 Amendment
 - 1038.70 Amendment
- 4) **Statutory Authority:** Implementing and authorized by Section 9.26 of the Board of Higher Education Act [10 ILCS 205/9.26]
- 5) **Effective Date of Amendments:** February 14, 2000
- 6) **Does this rulemaking contain an automatic repeal date?** No
- 7) **Do these amendments contain incorporations by reference?** No
- 8) **A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**
- 9) **Notice of Proposal Published in Illinois Register:** October 1, 1999, 23 Ill. Reg. 11803
- 10) **Has JCAR issued a Statement of Objection to these amendments?** No
- 11) **Difference between proposal and final version:**

In Section 1038.20, "Award Eligibility", the date was changed to March 31. Section 1038.20 was changed to read: "Matching Period" means the State of Illinois fiscal year two years prior to the grant period, or in the case of an institution where the institution fiscal year is not the same as the State fiscal year, "matching period" means the institution fiscal year which most closely overlaps the State fiscal year two years prior to the grant period.

In Section 1038.20, "Supported project", following the word "sponsor" and before the comma, the following language was added: "during the Award Eligibility Period".

Section 1038.40 was changed to read: "State Matching Grant Program grant funds shall be allocated to each participating institution based on the

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institution's expenditures of Federal funds during the matching period as contained in the institution's U.S. Office of Management and Budget Circular A-133, Audit Schedule of Expenditures of Federal Awards, less any of those funds that represent student financial aid. Individual institutional allocations shall be based on the institution's proportional share of the total Federal funds received during the matching period for all Illinois institutions submitting grant applications. It shall be the responsibility of the institution to provide an accounting of the portion of those Federal funds representing student financial assistance."

In Section 1038.50, subsection (A) was deleted and subsequent subsections were renumbered (A) through (D); and in (d), a comma was added after "from", and "applications" was added after "and".

In Section 1038.60, the word "newly" was deleted.

In Section 1038.70 (b), starting with "A State Matching Grant Program", language was changed to read: "A State Matching Grant Program grant specific audit is required and shall be performed in accordance with Government Auditing Standards, issued by the United States General Accounting Office, Comptroller General of the United States and in effect at the time of the audit. Audits are due by November 30 following the end of the expenditure period. The Government Auditing Standards is offered for sale by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328, ISBN 0-16-045011-X."

- 12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** Yes

- 13) **Will these amendments replace emergency amendments currently in effect?** No

- 14) **Are there any amendments pending on this Part?** No

- 15) **Summary and Purpose of Amendments:** The adopted amendments improve the application and administration procedures for the program and simplify the basis for allocation of funds. A provision is included for the allocation of any funds remaining after institutions have submitted their lists of funded projects to match their allocation.

- 16) **Information and questions regarding these adopted amendments shall be directed to:**
 - Carolyn Lorton
 - Illinois Board of Higher Education
 - 431 East Adams Street, Second Floor
 - Springfield, Illinois 62701
 - 217/557-7343 or lorton@bhe.state.il.us

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The full text of the adopted amendments begins on the next page:

BOARD OF HIGHER EDUCATION
NOTICE OF ADOPTED AMENDMENTS
TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1038
STATE MATCHING GRANT PROGRAM

Section	Purpose
1038.10	Definitions
1038.20	Project Eligibility Criteria
1038.30	Funding Formula
1038.40	Application Requirements
1038.50	Use of Grant Funds
1038.60	Conditions and Administrative Responsibilities
1038.70	

AUTHORITY: Implementing and authorized by Section 9.26 of the Board of Higher Education Act [110 ILCS 205/9.26].

SOURCE: Adopted at 23 Ill. Reg. 2747, effective February 17, 1999; amended at 24 Ill. Reg. 33 6 4, effective 11/10/2000.

Section 1038.10 Purpose

The purpose of this Part is to provide for the distribution of matching grants to Illinois institutions of higher education as incentives in the competition for external grants and contracts. Grants will be made to stimulate increased federal and corporate research funds and to improve the research capabilities of those institutions. [110 ILCS 205/9.26]

(Source: Amended at 24 Ill. Reg. 33 6 4, effective 11/10/2000)

Section 1038.20 Definitions

a) "Applied research" means systematic study and investigation undertaken to discover the applications and uses of knowledge and principles in actual work or in solving problems.

"Award eligibility period" means the 12-month period ending March 31 of the grant period.

b) "Basic research" means systematic study and investigation undertaken to discover new knowledge and establish facts or principles.

c) "Board" means the Illinois Board of Higher Education.

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d† "Expenditure period" means the two-year period beginning on the first day of the grant period.

e† "Grant funds" means dollars appropriated by the State of Illinois to be used in support of the State Matching Grant Program.

f† "Grant period" means the State of Illinois fiscal year for which grant funds are appropriated.

g† "Institution" means an Illinois public university or community college, or not-for-profit degree-granting independent college or university.

h† "Matched-project" means a sponsored research project for which an award was paid to the institution by an external sponsor during the matching period, for which the institution made a required matching contribution, and which meets the project eligibility criteria set forth in Section 1038.30.

i† "Matching contribution" is the institution's resource commitment to a sponsored research project as required by the terms of the agreement between the institution and the project sponsor. Matching contributions shall not include the contributed effort of project investigators and shall be limited to institutionally-provided direct costs separately budgeted and accounted for as the institution's contribution to the research project.

j† "Matching period" means the State state of Illinois fiscal year two years prior to the grant period, or in the case of an institution where the institution fiscal year is not the same as the State fiscal year, "matching period" means the institution fiscal year which most closely overlaps the State fiscal year two years prior to the grant period immediately preceding the state of Illinois fiscal year for which grant funds are appropriated.

"OMB Circular A-133 Audit Report" means an audit conducted according to the United States Office of Management and Budget Circular A-133.

k† "Sponsor" means an entity, other than the State state of Illinois, the applicant institution, or any consortium in which the institution is a member, that provides primary financial support for research project activities.

l† "Supported project" means a sponsored research project for which an award is formally committed to by an external sponsor during the Award Eligibility Period, for which the receipt of sponsored research grant funding requires an institutional matching contribution, that meets the criteria set forth in Section 1038.30, and for which grant

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funds will be allocated to meet all or part of the matching contribution during the expenditure period. Multi-year projects may be submitted for only one year at a time, but may be re-submitted annually during the life of the project if the project sponsor is required to make a re-determination each year that the institution is eligible for grant funding.

(Source: Amended at 24 Ill. Reg. 3364, effective February 14, 2000.)

Section 1038.30 Project Eligibility Criteria

Eligible projects shall meet the following criteria: to be eligible for inclusion as a matched project in the grant application or as a supported project for which grant funds will be used:

- a) The project is a research project and is described by the sponsor as a research project.
- b) The research project is awarded grant funds through an open and competitive process of merit review.
- c) Matching funds are required by the sponsor under the terms of the award or the award is conditioned on a match as a determination of institutional commitment.
- d) The institution is committed to provide a specified matching contribution and shall provide funding for any portion of the matching contribution not covered by the State Matching Grant Program.
- e) Projects must be basic research or applied research activities.
- f) Such activities as training of personnel, workforce training or development, curricular research or development, clinical trials, or building construction or renovation (except for renovation costs incurred in support of an eligible project) are shall be only incidental to the basic research or applied research activities.
- g) Research projects for which the State state of Illinois has provided a specific grant or appropriation are ineligible for matching funds under this grant program. However, research projects for which State Matching Grant Program grants or other state funds were used as matching contributions during the matching period are eligible for inclusion as a matched project in establishing the subsequent year's allocation base:
- h) The results of the sponsored research project must be available to the public or to the sponsoring governmental agency. Research projects may not support private, non-governmental, or for-profit research activities.

(Source: Amended at 24 Ill. Reg. 3364, effective February 14, 2000.)

Section 1038.40 Funding Formula

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C) ~~the~~ institution will refund to the Board of Higher Education the prorated amount of grant funds for supported ~~matched~~ projects for which funding is not received, for which ~~matching-of~~ grant funds are not properly expended, or for which the institution is deemed ineligible; and

D) ~~the~~ institution will provide such additional information requested by the Board or external evaluators as necessary to administer this program.

d) Application information may be obtained from, and applications shall be submitted to:

State Matching Grant Program
Illinois Board of Higher Education
431 East Adams, Second Floor
4 West Old Capitol Plaza, Room 500
Springfield, Illinois 62701-1418
217/557-7377 #62-7#64

(Source: Amended at 24 Ill. Reg. ~~3364~~, effective ~~FEB 14 2000~~)

Section 1038.60 Use of Grant Funds

a) State Matching Grant program grant funds may be used only for:

- 1) All or part of the institution's required matching contribution during the grant expenditure period for eligible supported sponsored research projects for which the institution receives formal notification of the awarding of sponsor research funds during the award eligibility grant period.

2) Audit of grant funds.

b) The Board will distribute grant funds to institutions based on:

- 1) The institution's allocation of grant funds as determined in Section 1038.40, one-half of which will be distributed to grant recipients at the time of allocation.

- 2) Not later than May 1 of the grant year, each institution receiving a grant shall submit to the Board ~~the remainder of the institution's allocation after the Board receives a request for the distribution of the remaining grant funds from the institution that includes a listing of all newly eligible supported sponsored research projects for which the institution received award notification during the award eligibility period. grant period and a copy of the format award notification letters from the project sponsor.~~

For each supported project, the following information shall be submitted:

- A) project title;
- B) copy of official award notification letter from the project sponsor; and

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State Matching Grant program grant funds shall be allocated to each participating institution based on the institution's expenditures of federal funds during the matching period as contained in the institution's U.S. Office of Management and Budget Circular A-133, Audit Schedule of Expenditures of Federal Awards, less any of those funds that represent student financial aid. Individual institutional allocations shall be based on the institution's proportional share of the total federal funds received during the matching period for all Illinois institutions submitting grant applications. It shall be the responsibility of the institution to provide an accounting of the portion of those federal funds representing student financial assistance, total sponsored grant funding for eligible matched projects received during the matching period as a proportion of the total sponsor grant funding for matched projects received during the matching period for all institutions submitting grant applications, in this formula, funds provided to any third party as a subaward are to be excluded.

(Source: Amended at 24 Ill. Reg. ~~3364~~, effective ~~FEB 14 2000~~)

Section 1038.50 Application Requirements for Determination of Grant Funds Allocation

a) The Board shall notify in writing the chief executive officer of every institution in the State of Illinois of the availability of grant funds not less than 45 days before the deadline for submission of applications.

b) Applications must be completed on forms prescribed by the Board.

c) Grant funds applications shall contain, at a minimum:

1) For each matched project, the following information:

A) project title;

B) copy of official award notification;

C) total grant funding and grant funding received during the matching period (less grant funds provided to a subgrantee during the matching period); and

D) a description of specific institutional matching requirements and matching contributions expended during the matching period.

- 1) A copy of the institution's U.S. Office of Management and Budget (USOMB) A-133, Audit Schedule of Expenditures of Federal Awards, for the matching period.

- 2) Certification by the chief executive officer of the institution that:

A) research projects and matching contributions listed in the application comply with this Part;

B) the institution will provide a program specific audit as required by this Part Part;

C) the institution will comply with this Part and applicable State state and federal statutes;

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- c) a description of institution matching requirements and contributions to be expended during the expenditure period.
- d) Any single supported research project shall not be eligible for more than ten percent of the grant funds appropriated by the State for the grant period.

(Source: Amended at 24 Ill. Reg. 3364, effective 1/1/2001)

Section 1038-70 Conditions and Administrative Responsibilities

- a) Non-Discrimination. No recipient shall discriminate on the basis of race, creed, sex, handicap, color, or national origin in the employment, training, or promotion of personnel.
- b) Audit. Each recipient of a State Matching Grant program shall submit an audit performed by an external auditor who is licensed and registered as a public accountant by the Illinois Department of Professional Regulation. Such audit shall include a report from the auditor as to whether for each identified project sponsor research funds were received during the matching period and the institutional matching contributions were truly state-matching-based on conditions and assurances included in the State Matching Grant Program grant application and award letter. The auditor also shall report as to whether grant funds were expended in accordance with the uses outlined in Section 1038.60. A State Matching Grant program grant specific audit is required and shall be performed in accordance with Government Auditing Standards, 1994--Revision issued by the United States General Accounting Office, Comptroller General of the United States and in effect at the time of the audit. Audits are due by November 30 October 1 following the end of the expenditure period.
- c) The Government Auditing Standards 1994 Revision is offered for sale by the U.S.: Government Printing Office, Superintendent of Documents, Mail Stop: SGP, Washington, DC 20402-9328, ISBN 0-16-045011-X. A copy of this publication is on file at the Board of Higher Education office. The standards also are available on-line at <http://www.gao.gov/govaud/78K01.htm#vbkintro>.
- d) Evaluation Report. A report documenting the external leveraging of funds achieved and results achieved by the matching grant funds is to be provided. The report shall document the extent to which the institutions' ability to attract funds has been enhanced by the State Matching Grant Program and what monetary and non-monetary benefits have accrued to the citizens of Illinois as a result of projects included in the State Matching Grant Program. Evaluation reports are due October 1 following the end of the expenditure period.
- e) Any matched project that was used to obtain grant funds but for which sponsor funding was never received for any reason shall require a prorated return of the grant funds attributed to that project.
- f) Grant funds not expended as matching contributions for eligible

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- projects identified by the grant recipient or the required audit shall be refunded to the Board.
- e) At the end of the grant period, the Board may allocate any remaining returned or unspent funds to eligible applicant institutions based on their previously determined proportionate share.
- f) With the assistance of a panel of external evaluators, the State Matching Grant Program will be reviewed annually and the results reported to the Board of Higher Education. The following questions will be addressed in the report:
- 1) To what extent have the objectives of the program been achieved?
 - 2) How many federal and corporate research dollars have come to Illinois as a result of projects included in the program?
 - 3) What monetary and/or non-monetary benefits have accrued to the citizens of Illinois as a result of the projects supported by the grant program?

(Source: Amended at 24 Ill. Reg. 3364, effective 1/1/2001)

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1) **Heading of the Part:** Managed Care Reform & Patient Rights

2) **Code Citation:** 50 Ill. Adm. Code 5420

Section Number:	Adopted Action:
5420.10	New Section
5420.20	New Section
5420.30	New Section
5420.40	New Section
5420.50	New Section
5420.60	New Section
5420.70	New Section
5420.80	New Section
5420.90	New Section
5420.100	New Section
5420.110	New Section
5420.120	New Section
5420.Exhibit A	New Section
5420.Exhibit B	New Section
5420.Exhibit C	New Section

4) **Statutory Authority:** Implementing the Managed Care Reform and Patient Rights Act [215 ILCS 134] (P.A. 91-617, effective January 1, 2000, except Sections 200 and 299 of the Act which took effect on August 19, 1999; and Sections 25 and 85 of the Act which take effect on July 1, 2000) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

5) **Effective Date of Rules:** February 10, 2000

6) **Does this rule contain an automatic repeal date?** No

7) **Does this rule contain incorporations by reference?** No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** October 8, 1999, 23 Ill. Reg. 12077

10) **Has JCAR issued a Statement of Objections to this Rule?** No

11) **Differences between proposal and final version:**

- a) The Department has added the Illinois Register publication information for our emergency rule to the main source note and has added "; adopted at 24 Ill. Reg. _____, effective _____".

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b) In Section 5420.20(b), deleted "providers" and added "plans" in lieu thereof.

c) In Section 5420.40(a)(1)(E), in the second sentence, changed "enrollee" to "enrollees". Also in Section 5420.40(a)(1)(E), in the last sentence, changed "enrollee" to "enrollees".

d) In Section 5420.40(b), in the first sentence, changed "enrollee's" to "enrollees".

e) In Section 5420.40(c), in the second sentence, changed "enrollee" to "enrollees".

f) In Section 5420.120, last line, added "its" following "after" and deleted all text following "receipt."

12) **Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rule replace an emergency rule currently in effect?** Yes

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of rulemaking:** This Part will implement Public Act 91-617, the Managed Care Reform and Patient Rights Act, in order to assure the proper provision of information to enrollees by health care plans; the proper treatment of enrollees by health care plans; the proper treatment of health care providers by health care plans; and the proper oversight of health care plans by the Department of Insurance.

16) **Information and questions regarding this adopted rule shall be directed to:**

David Grant
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-6369

The full text of the adopted rules begins on the next page.

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TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER kk: HEALTH CARE SERVICE PLANS

PART 5420

MANAGED CARE REFORM & PATIENT RIGHTS

Section	Purpose
5420.10	Applicability
5420.20	Definitions
5420.30	Provision of Information
5420.40	Notice of Nonrenewal or Termination
5420.50	Transition of Renewal or Termination
5420.60	Health Care Services, Appeals, Complaints and External Independent Reviews
5420.70	Joint Resolution of Complaints - Department of Insurance and Department of Public Health - Notification and Resolution Process
5420.80	Record of Complaints
5420.90	Access and Quality of Care from Providers Without Primary Care Physician Referral or Authorization
5420.100	Emergency Services
5420.110	Post Stabilization Services
5420.120	
5420-Exhibit A	Description of Coverage - Cover Page
5420-Exhibit B	Description of Coverage - Worksheet
5420-Exhibit C	Complaint Record and Column Descriptions

AUTHORITY: Implementing the Managed Care Reform and Patient Rights Act [215 ILCS 134] (P.A. 91-617, effective January 1, 2000, except Sections 200 and 299 of the Act which took effect on August 19, 1999; and Sections 25 and 85 of the Act which take effect on July 1, 2000) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Emergency rules adopted at 23 Ill. Reg. 12466, effective September 27, 1999, for a maximum of 150 days; adopted at 24 Ill. Reg. 3374, effective FEB 10 2000.

Section 5420.10 Purpose

This Part will implement Public Act 91-617, the Managed Care Reform and Patient Rights Act in order to assure: the proper provision of information to enrollees by health care plans; the proper treatment of enrollees by health care plans; the proper treatment of health care providers by health care plans; and the proper oversight of health care plans by the Department of Insurance.

Section 5420.20 Applicability

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- a) All provisions of this Act are applicable to the Comprehensive Health Insurance Plan, Health Maintenance Organizations, Voluntary Health Service Organizations, and Limited Health Service Organizations except those plans offering only dental services or only vision services. In addition, Sections 55 and 85 of the Act are applicable to Third Party Administrators. Also Sections 55 and 85 of the Act, as well as compliance with the definition of the term emergency medical condition, as defined in Section 10 of the Act, are applicable to entities regulated under Article XX 1/2 of the Insurance Code, generally referred to as Preferred Provider Organizations. Finally, Section 85 of the Act and compliance with the definition of the term "emergency medical condition" as defined in Section 10 of the Act are applicable to all insurers authorized to transact the sale of accident and health insurance in Illinois.
- b) Until July 1, 2000, health care plans may, but are not required to, incorporate the transition of service standards defined in Section 5420.60 of this Part and also referred to in Section 5420.40 and 5420.50 of this Part.

Section 5420.30 Definitions

Act means the Managed Care Reform and Patient Rights Act [215 ILCS 134] (P.A. 91-617, effective January 1, 2000, except Sections 200 and 299 of the Act which took effect on August 19, 1999; and Sections 25 and 85 of the Act which take effect on July 1, 2000).

Code means the Illinois Insurance Code including any of the Acts in Chapter 215 of the Illinois Compiled Statutes.

Department means the Illinois Department of Insurance.

Director means the Director of the Illinois Department of Insurance.

Health Care plan means a plan that establishes, operates, or maintains a network of health care providers that has entered into an agreement with the plan to provide health care services to enrollees to whom the plan has the ultimate obligation to arrange for the provision of or payment for services through organizational arrangements for ongoing quality assurance, utilization review programs, or dispute resolution. Nothing in this definition shall be construed to mean that an independent practice association or a physician hospital organization that subcontract with a health care plan is, for purposes of that subcontract, a health care plan. For purposes of this definition, "health care plan" shall not include the following: (1) indemnity health insurance policies including those using a contracted provider network; (2) health care plans that offer only dental or only vision coverage; (3) preferred provider administrators, as defined in Section 370g(g) of the Illinois Insurance Code; (4) employee or employer

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self-insured health benefit plans under the federal Employee Retirement Income Security Act of 1974; (5) health care provided pursuant to the Workers' Compensation Act or the Workers' Occupational Diseases Act; and (6) not-for-profit voluntary health services plans with health maintenance organization authority in existence as of January 1, 1999 that are affiliated with a union and that only extend coverage to union members and their dependents.

Health Care Provider means any physician, hospital facility, or other person that is licensed or otherwise authorized to deliver health care services. Nothing in the Act shall be construed to define independent practice associations or physician hospital organizations as health care providers.

Long-Standing Relationship means the continuous relationship between an enrollee and his or her primary care physician of not less than 5 years; except in the case of a child 5 years or under who has had a continuous relationship with the same primary care physician since birth, placement for adoption, guardianship or foster care.

Managed Care Organization (MCO) means a partnership, association, corporation or other legal entity, including but not limited to individual practice associations (IPAs) and Physician Hospital Organizations (PHOs), which delivers or arranges for the delivery of health care services through providers it has contracted with or otherwise made arrangements with to furnish such health care services.

Ongoing Course of Treatment means the treatment of a condition or disease that requires repeated health care services pursuant to a plan of treatment by a physician because of the potential for changes in the therapeutic regimen.

Referral Arrangement means that for each referral or standing referral, a referral arrangement exists between a participating primary care physician and a participating specialist physician or a participating health care provider when a participating primary care physician makes a referral of an enrollee for that referral or standing referral to a participating specialist physician or participating health care provider.

Standing Referral means a written referral from the primary care physician for an ongoing course of treatment pursuant to a treatment plan specifying needed services and time frames developed by a specialist in consultation with the primary care physician and in accordance with procedures developed by the health care plan.

Section 5420.40 Provision of Information

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a) Description of Coverage

1) So that a person can compare the attributes of various health care plans, both a description of coverage cover page and worksheet must be completed by the health care plan. The cover page and worksheet shall follow substantially the same format as prescribed in Exhibits A and B respectively of this Part. Each shall be printed in no less than 12 point type.

A) Copayments and/or deductibles which vary within a specific benefit category must be listed individually for each item (e.g., copayments for prescription drugs should be listed separately based upon the drug being brand name or generic equivalent).

B) The category entitled "Other Services" may be modified to include additional headings as may be appropriate. If the contract does not provide coverage for listed "Other Services", the description of coverage worksheet should so indicate by stating "Not Applicable" for each such item.

C) A health care plan specific description of coverage worksheet shall contain financial information specific to the enrollee's plan. A generic description of coverage worksheet will be applicable to all of the health care plan's plans and include a general description of financial information.

D) All description of coverage worksheets shall include a notice of the enrollee's right to request a description of the financial relationships between the health care plan and any health care provider, the percent of copayments, deductibles and total premiums spent on health care related and administrative expenses, as well as a notice of the enrollee's right to request health care provider information from their provider as set forth in Section 15(c) of the Managed Care Reform and Patient Rights Act.

E) All description of coverage worksheets shall clearly disclose that referral arrangements through the enrollee's participating primary care physician may limit the enrollee's ability to seek services from certain participating specialist physicians or participating health care providers. To obtain clarification on such referral arrangements, the enrollees must be instructed to contact their participating primary care physician's office. If a referral arrangement does not exist between the enrollee's participating primary care physician and the desired participating specialist physician or participating health care provider, then the enrollees must be informed of their ability to designate a new participating primary care physician with whom such referral arrangement does exist.

F) The description of coverage worksheet for point of service products, defined within 50 Ill. Adm. Code 5421.20, must

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- include a specific description of coverages, limitations, exclusions, deductibles and copayments specific to the indemnity contract.
- 2) A plan specific description of coverage cover page, worksheet and a list of participating health care providers shall be given to all new enrollees. Annually thereafter, a generic description of coverage cover page and worksheet must be mailed to enrollees. Only one enrollee per household must be furnished this material unless otherwise requested by the enrollee. For group contracts, the plan may satisfy this requirement by giving the required material to the contract holder, for distribution to their members.
- 3) Enrollees must be advised annually of their right to request a plan specific description of coverage cover page, worksheet and an updated list of participating health care providers. The enrollee shall be given the choice of requesting this information through a local telephone number or long distance toll-free telephone number and a prepaid postcard.
- 4) The plan specific description of coverage cover page, worksheet and list of participating health care providers shall be given to all prospective enrollees upon request. Availability of this information shall be prominently communicated within the health care plan's marketing materials. Prospective enrollees shall be able to request this information through a local telephone number or a long distance toll-free telephone number.
- 5) Health care plans are encouraged to make a generic description of coverage cover page, worksheet and list of participating health care providers available on their web sites. This will not act as a substitute for other forms of required disclosure.
- 6) Health care plans issuing contracts or evidences of coverage for delivery in this State shall not issue such contract or evidence of coverage unless a specific description of coverage cover page and worksheet are provided.
- 7) All health care plans must clearly communicate their procedure for the filing of complaints pursuant to Section 45 of the Act. When a health care plan is permitted by statute to require complaints be filed in writing, the appropriate complaint form must be made available to the enrollee.
- b) Within the group contract, evidence of coverage, individual contract and enrollee handbook, the health care plan shall provide a notice of the enrollees' right to request a description of the financial relationships between the health care plan and any health care provider, the percent of copayments, deductibles and total premiums spent on health care related and administrative expenses as well as the right to obtain health care provider information from their provider as set forth in Section 15(c) of the Managed Care Reform and Patient Rights Act.
- c) Each health care plan shall clearly disclose, within the group

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- contract, evidence of coverage, individual contract, enrollee handbook and provider directory that referral arrangements through the enrollee's participating primary care physician may limit the enrollee's ability to seek services from certain participating specialist physicians or participating health care providers. To obtain clarification on such referral arrangements, the enrollees must be instructed to contact their participating primary care physician's office. If a referral arrangement does not exist between the enrollee's participating primary care physician and the desired participating specialist physician or participating health care provider, then the enrollee must be informed of his ability to designate a new participating primary care physician with whom such referral arrangement does exist.
- d) Within the group contract, evidence of coverage, individual contract and enrollee handbook, all health care plans must clearly communicate their procedure for the filing of complaints pursuant to Section 45 of the Act. When a health care plan is permitted by statute to require complaints be filed in writing, the appropriate complaint form must be made available to the enrollees.

Section 5420.50 Notice of Nonrenewal or Termination

- a) All provider agreements shall provide for at least 60 days notice by the provider for termination with cause, as defined in such provider agreement, and at least 90 days notice by the provider for termination without cause. In the event the provider violates the provider agreement and does not give a notice of termination in the appropriate timeframe, the health care plan must provide immediate notice to the enrollees. The health care plan must inform the Department immediately of any known or intended termination, with or without cause, of an MCO.
- b) A health care plan must give at least 60 days notice of nonrenewal or termination of a health care provider to the health care provider and to the enrollees served by the health care provider. The notice shall include a name and address to which an enrollee or health care provider may direct comments and concerns regarding the nonrenewal or termination. Immediate written notice may be provided without 60 days notice when a health care provider's license has been disciplined by the State licensing board. The notice shall inform the enrollee of the availability of transitional services and that the enrollee must request transitional services within 30 days from receipt of this notice.

Section 5420.60 Transition of Services

- a) Health care plans shall notify new enrollees and current enrollees of the availability of transitional services for conditions that require ongoing course of treatment.

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- b) New enrollees must request the option of transitional services in writing, within 15 days after receiving notification of the availability of transitional services, through a mechanism established by the health care plan.
- c) Enrollees whose physician leaves the health care plan's network of health care providers shall request the option of transitional services in writing within 30 days after receipt of notification of termination of the physician.
- d) Within 15 days after receiving such notification from the enrollee, the health care plan shall notify the enrollee if a denial is issued for the enrollee's request of transitional services based on the enrollee's physician refusing to agree to accept the health care plan's reimbursement rates, adhere to the health care plan's quality assurance requirements, provide the health care plan with necessary medical information related to the enrollee's care, or otherwise adhere to the health care plan's policies and procedures. The notification shall be in writing and include the specific reason for such denial.

Section 5420.70 Health Care Services, Appeals, Complaints and External Independent Reviews

Every health care plan shall submit for the Department's review, and thereafter maintain, a mechanism for the joint selection of the external independent reviewer. Any proposed changes to the mechanism must be filed for review by the Department.

Section 5420.80 Joint Resolution of Complaints - Department of Insurance and Department of Public Health - Notification and Resolution Process

- a) Complaints against health care plans participating in programs administered by the Department of Public Aid pursuant to the Public Aid Code shall be resolved under rules published by the Department of Public Aid. Any complaints against such plans received by the Department of Insurance or the Department of Public Health shall be referred to the Department of Public Aid.
- b) Any enrollee or health care provider, on behalf of the enrollee, may file a written complaint against the health care plan through the Department of Insurance. Complaints received by the Department of Public Health shall be referred to the Department of Insurance for processing prior to investigation.
- c) The health care plan response shall include documentation and an explanation of all actions taken or not taken that were the basis for the complaint. The respondent shall include documents necessary to support the respondent's position and any additional information requested by the Department of Insurance and/or the Department of Public Health. Both the Department of Insurance and the Department of Public Health shall maintain confidentiality of medical records and

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- d) other pertinent documents.
- e) Quality of care complaints may be referred to the Department of Public Health for investigation.
 - 1) The Department of Public Health shall determine if an on-site investigation is warranted and may request additional information from the complainant, health care provider, or health care plan if the information provided is determined to be incomplete or if additional information is needed to make a determination regarding the complaint.
 - 2) If an investigation is warranted, the Department of Public Health shall make available the name, address and telephone number where an enrollee may obtain the status of the complaint.
 - 3) The Department of Public Health shall forward the findings of the investigation to the Department for final disposition and record keeping.
- e) No Department of Insurance or Department of Public Health publication or release of information shall identify any enrollee, health care provider, or individual complainant.

Section 5420.90 Record of Complaints

- a) Complaint, as used in this Section, means any communication primarily expressing a grievance to the health care plan by, or on behalf of, the enrollee, or by the health care provider. For purposes of this definition, "communications" shall include the following:
 - 1) A written notice relating to the health care plan's determinations, procedures and administration as stated in Sections 45 and 50 of the Act; and
 - 2) Written or oral notice filed under the expedited health care services appeal process or under the utilization review process.
- b) The health care plan shall submit to the Director a report by March 1 for the previous calendar year which shall include a record of complaints in the format prescribed in Exhibit C of this Part.

Section 5420.100 Access and Quality of Care from Providers Without Primary Care Physician Referral or Authorization

- a) Health care plans that allow enrollees to access health care services from contractual providers without a referral or authorization from the primary care physician (PCP) shall have in place a system for centralized record keeping to track and monitor the provider/enrollee encounters to assure that enrollees are receiving needed services.
- b) The health care plan's centralized record keeping system for access and quality of care shall be described in detail, filed with and deemed acceptable by the Director of Public Health. The Director of Public Health shall forward a copy of the approved system for record keeping and the notice of his final action with the Department of Insurance.

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- c) The health care plan shall be able to retrieve an enrollee's centralized record of the provider/enrollee encounters for review by the Department and/or Department of Public Health as part of a complaint investigation or inquiry.

Section 5420.110 Emergency Services

For purposes of determining compliance with Section 65 of the Act, timely determination shall mean a determination is made within 30 days after the health care plan receives a claim for emergency services if no additional information is needed to determine the emergency services meet the definition of an emergency medical condition. In the event additional information is necessary to make such a determination, the health care plan shall request the medical record documenting the presenting symptoms at the time care was sought within 15 days after receipt of the emergency services claim and make a determination within 30 days after its receipt.

Section 5420.120 Post Stabilization Services

For purposes of determining compliance with Section 70 of the Act, timely determination shall mean a determination is made within 30 days after the health care plan receives a claim for post stabilization services if no additional information is needed to determine that services rendered were not contrary to the instructions of the health care plan or its delegated health care provider if the contact was made between those parties and the treating health care provider prior to the services being rendered. In the event additional information is necessary to make such a determination, the health care plan shall request the medical record documenting the time, phone number dialed, and the result of the communication for request for authorization of post stabilization medical services as well as the post stabilization medical services rendered within 15 days after receipt of the post stabilization services claim and make a determination within 30 days after its receipt.

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Section 5420 EXHIBIT A Description of Coverage - Cover Page

The Managed Care Reform and Patient Rights Act of 1999 established rights for enrollees in health care plans. These rights cover the following:

What emergency room visits will be paid for by your health care plan.
How specialists (both in and out of network) can be accessed.

How to file complaints and appeal health care plan decisions (including external independent reviews).

How to obtain information about your health care plan, including general information about its financial arrangements with providers.

You are encouraged to review and familiarize yourself with these subjects and the other benefit information in the attached Description of Coverage Worksheet. SINCE THE DESCRIPTION OF COVERAGE IS NOT A LEGAL DOCUMENT, for full benefit information please refer to your contract or certificate, or contact your health care plan at the toll free number on the next page. In the event of any inconsistency between your Description of Coverage and contract or certificate, the terms of the contract or certificate will control.

For general assistance and information, please contact the Illinois Department of Insurance Office of Consumer Health Insurance at

Health Insurance will not be able to provide specific plan information. For this type of information you should contact your health care plan directly.)

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Section 5420, EXHIBIT B Description of Coverage - Worksheet

Plan _____
 Name: _____
 Address: _____
 Toll Free Telephone Number _____
 Web site (optional) _____

Basic		Description of Coverage	
Your Doctor (description of process for selection of physician, PCP and/or WHCP)			
Annual Deductible (if applicable)	Individual		
Maximum	Family		
Lifetime Maximums			
Preexisting Condition Limitations			
	Description Of Coverage	Health Care Plan Covers	You Pay
In the Hospital	Number of Days of Inpatient Care Room & Board Surgeon's Fees Doctor's Visits Medications Other Miscellaneous Charges Emergency Services - (medical conditions of sufficient severity such that a prudent layperson could reasonably expect the absence of immediate medical attention to result in serious jeopardy of the person's health, serious impairment to bodily functions or serious dysfunction of any bodily organ or part) Emergency Post-stabilization services		
Emergency Care	Doctor's Office Visits Routine Physical Exams Diagnostic Tests and X-rays Immunizations Allergy Treatment & Testing Wellness Care		
In the Doctor's Office	Outpatient Surgery Maternity Care	Hospital Care	
Medical Services	Infertility Services Mental Health	Physician Care Outpatient	

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	Inpatient	Outpatient	Inpatient
Substance Abuse			
Outpatient Rehabilitation Services			
Durable Medical Equipment			
Hospice			
Home Health Care			
Prescription Drugs			
Dental Services			
Vision Care			
Other Services*			

*Copayments and deductibles for these services may not apply to your out of pocket maximums.

Service Area (Boldface Type)

[A summary description of the area to be served by the health care plan.]

Exclusions and Limitations (Boldface Type)

[A summary description of all contract exclusions, exceptions and limitations.]

Pre-certification and Utilization Review (Boldface Type)

[A summary description of the procedures and requirements for pre-certification and other utilization review procedures.]

Emergency Care (Boldface Type)

[A summary description of requirements for and coverage of pre and post emergency care.]

Primary Care Physician Selection (Boldface Type)

[A summary description of procedures and requirements for primary care physician selection.]

Access to Specialty Care (Boldface Type)

[A summary description of referral policies, including standing referrals, and any limitation on access to specialists. This should include access to, and limitations on access to, out of network specialists.]

Out-of-Area Coverage (Boldface Type)

[A summary description of benefits available to the enrollee for out-of-area coverage.]

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Section 5420. EXHIBIT C Complaint Record and Column Descriptions

COMPLAINT RECORD				
Column A Health Care Plan ID	Column B Complaint Origin	Column C Function Code	Column D Date Received	Column H Disposition
Column E Date Closed	Column F IDOI Complaint	Column G External Review	EXPLANATION	

1. Column A. Identification Number - This is the identification number used by the health care plan to identify the complaint internally.
2. Column B. Complaint Origin - complaint was filed by:
 - a) Consumer or enrollee;
 - b) Provider;
 - c) Any other individual.
3. Column C. Function Code. Complaints are to be classified by function(s) or the health care plan involved as follows:
 - a) Denial of care or treatment;
 - b) Denial of diagnostic procedure;
 - c) Denial of referral request;
 - d) Sufficient choice and accessibility of health care providers;
 - e) Underwriting;
 - f) Marketing and sales;
 - g) Claims and utilization review;
 - h) Member services;
 - i) Provider relations;
 - j) Miscellaneous.
4. Column D. Date Received - date received by the health care plan.
5. Column E. Date Closed - date closed by the health care plan.
6. Column F. Insurance Department Complaint - If the complaint was also sent to the health care plan from the Department, the health care plan should provide the IDOI complaint number in this column.
7. Column G. External Review - indicate by placing an "x" in the column if complaint was processed through external review procedure.

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Financial Responsibility (Boldface Type)

[A summary description to the enrollee of all out-of-pocket expenses, including copayments, deductibles and premiums payable under the policy. When the entire premium is not paid directly by the enrollee, then the enrollee may need to contact the benefit administrator for the level of contribution.]

Continuity of Treatment (Boldface Type)

[A summary description of the health care plan's provision for continuity of treatment in the event that the enrollee's health care provider terminates from the plan during a course of care, including time frames for requesting transitional services.]

Appeals Process (Boldface Type)

[A summary description of the process for health care service appeals, complaints, external independent reviews, administrative complaints and utilization review complaints, including time frames and a phone number to call to receive more information from the health care plan concerning the enrollee's appeal process.]

Any enrollee not satisfied with the health care plan's resolution of any complaint may appeal the final plan decision to the Department of Insurance, through the Consumer Services Section, at one of the following locations:

320 West Washington Street
Springfield, Illinois 62767-0001

OR

100 West Randolph Street
Suite 15-100
Chicago, Illinois 60601-3251

You may also contact the Department electronically at <http://www.state.il.us/ins>.

Note: External grievance determinations in most cases are not appealable through the Department of Insurance.

IMPORTANT: In the event of any inconsistency between your Description of Coverage and contract or certificate, the terms of the contract or certificate will control.

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8. Column H. Disposition -

- a) Relief Granted - If the complaint was resolved in favor of the complainant;
- b) Partial Relief Granted - If the complaint was only partially resolved in favor of the complainant;
- c) Information Furnished - The complaint did not require action only information to be provided to the enrollee;
- d) No Relief Granted - If the complaint was not resolved in favor of the complainant.

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1) Heading of the Part: International Tourism Program

2) Code Citation: 14 Ill. Adm. Code 555

Section Numbers:	Emergency Action:
555.10	New Section
555.20	New Section
555.30	New Section
555.40	New Section
555.50	New Section
555.60	New Section
555.70	New Section
555.80	New Section
555.90	New Section
555.100	New Section

4) Statutory Authority: Implementing Section 46.6d of the Civil Administrative Code of Illinois [20 ILCS 605/46.6d] and authorized by Section 46.20 of the Civil Administrative Code of Illinois [20 ILCS 605/46.20].

5) Effective Date of Rule: February 14, 2000

6) If this emergency rule is to expire before the end of the 150-day period, please specify that date on which it is to expire: N/A

7) Date filed with the Index Department: February 14, 2000

8) A copy of the emergency rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: To develop administrative rules for PA 91-604/HB 2163 that established a grant program for international tourism that begins on January 1, 2000. This House Bill was passed on December 2, 1999 and signed by Governor Ryan on January 26, 2000.

10) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes a grant program for certified local tourism and convention bureaus for new international initiatives created as a result of PA 92-604.

11) Are there any proposed rules pending on this part: No

12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 8053(b)].

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13) Information and questions regarding this rule shall be directed to:

Ms. Raya Bogard
 Administrative Code Rules Manager
 Department of Commerce and Community Affairs
 620 East Adams
 Springfield IL 62701
 Telephone number: (217) 785-6285
 TDD number: (217) 785-6055

The full text of the Emergency Rule begins on the next page:

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NOTICE OF EMERGENCY RULE

TITLE 14: COMMERCE
 SUBTITLE C: ECONOMIC DEVELOPMENT
 CHAPTER 1: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 555
 INTERNATIONAL TOURISM PROGRAM

Section	Purpose
555.10	EMERGENCY
555.20	Definitions
EMERGENCY	555.30 Allocation of Appropriations
EMERGENCY	555.40 Eligible Use of Funds
EMERGENCY	555.50 Eligible Applicants
EMERGENCY	555.60 Funding Limitations
EMERGENCY	555.70 Application Cycle
EMERGENCY	555.80 Application Documentation
EMERGENCY	555.90 Evaluation Process
EMERGENCY	555.100 Agreement
EMERGENCY	

AUTHORITY: Implementing Section 46.6d of the Civil Administrative Code of Illinois [20 ILCS 605/46.6d] and authorized by Section 46.20 of the Civil Administrative Code of Illinois [20 ILCS 605/46.20].

SOURCE: Emergency rule adopted at 24 Ill. Reg. 3391, effective February 14, 2000, for a maximum of 150 days.

Section 555.10 Purpose

~~EMERGENCY~~

Section 46.6d of the Code of Civil Procedure [20 ILCS 605/46.6d] authorizes the Department of Commerce and Community Affairs to make grants and partner with certified local tourism and convention bureaus for the purpose of coordinating international tourism efforts.

Section 555.20 Definitions

~~EMERGENCY~~

The following definitions are applicable to this Part:

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NOTICE OF EMERGENCY RULE

"Applicant" means a certified local tourism and convention bureau.

"Application" means a written request for program funds, including the required forms and attachments.

"Certified local tourism and convention bureau" means the local bureau that has been designated by the Department as a grantee entitled to receive funds under the Local Tourism and Convention Bureau program [20 ILCS 605/46.6a] in accordance with 14 Ill. Adm. Code 550.35.

"Department" means the Department of Commerce and Community Affairs.

"Economic Impact" means the direct financial result of a promotion, event or program such as visitor attendance (international), number of room nights utilized and length of stay.

"Fiscal year" means July 1 through June 30, the fiscal year of the State of Illinois.

"International", when pertaining to a country, means any country that is outside the continental United States, Hawaii and Alaska.

"Watch" means bureaus' local funds that do not include in-kind contributions and funds not used to match other State tourism grants.

"Program" means the International Tourism Program.

"Project" means activities funded by the International Tourism Program.

"Recipient" means a certified local tourism and convention bureau that has been awarded a grant.

Section 555.30 Allocation of Appropriations

EMERGENCY

- a) The allocation of the funds available for fiscal year 2000 beginning with January 1, 2000:

- 1) 55% shall be used for grants to the Chicago Convention and Tourism Bureau.
- 2) Not less than \$1,000,000 shall be used for certified local tourism and convention bureaus outside Chicago.

- b) The allocation of funds in fiscal year 2001 beginning July 1, 2000, and thereafter:

- 1) 21.5% shall be used for grants to the Chicago Convention and Tourism Bureau.
- 2) 21.5% shall be used for grants to the City of Chicago's Office of Tourism.

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- 3) Of the remaining 45%, not less than \$1,000,000 shall be used for grants to certified local tourism and convention bureaus outside Chicago.

- c) If sufficient local funds cannot be raised to match the allocation under subsections (a) and (b) of this Section, the appropriation may be allocated in whole or in part to any applicant or applicants able to qualify for a grant or may be used by the Department to promote international tourism to the State of Illinois.

Section 555.40 Eligible Use of Funds

EMERGENCY

- a) Projects and activities for certified local tourism and convention bureaus outside Chicago.

- 1) Eligible projects and activities - Activities include, but are not limited to, costs associated with programs that target international markets such as advertising, marketing, costs for familiarization tours, trade shows, sales missions, translation services, research, promotional items and technical assistance.

- 2) Ineligible projects and activities - Activities include, but are not limited to, purchase of equipment, administrative expenses (salary, utilities, rent), purchase of alcoholic beverages and any costs associated with the general purposes of domestic marketing, advertising or other promotions.

- b) Projects and activities for certified local tourism and convention bureaus in Chicago.

- 1) Eligible projects and activities - Activities include, but are not limited to, costs associated with programs that target international markets, such as advertising, marketing, costs for familiarization, trade shows, sales missions, translation services, research, promotional items and technical assistance and may be expended for the general purposes of promoting conventions and tourism.

- 2) Ineligible projects and activities - Activities that are ineligible for funding include, but are not limited to, purchase of equipment, administrative expenses (salary, utilities, rent) and purchase of alcoholic beverages.

Section 555.50 Eligible Applicants

EMERGENCY

Illinois local tourism and convention bureaus, recognized by the Department as certified under the local tourism and convention bureau program, may apply for International Tourism Program Grants.

Section 555.60 Funding Limitations

EMERGENCY

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The certified local tourism and convention bureaus shall provide matching funds in an amount not less than 100 percent of the grant project.

Section 555.70 Application Cycle**EMERGENCY**

- a) The Department shall supply interested entities with an application upon request.
- 1) Applications under this program for FY 00 will be accepted on January 1, 2000.
- 2) Applications under this program will be accepted once a year thereafter. July 1 is the award date and applications must be submitted by May 1 (60 days prior).
- 3) If funds remain available, another grant cycle will be announced, also with a 60 day prior submission.
- b) Applications will be accepted at the following address:
Illinois Trade Office
International Tourism Program
Department of Commerce and Community Affairs
100 W Randolph St., 3-400
Chicago, Illinois 60601
- c) Applications shall be in writing and in the current approved format provided by the Department.
- d) An application shall be submitted as one original and three copies.

Section 555.80 Application Documentation**EMERGENCY**

- All applicants shall include documentation of the following:
- a) Description of the project - a summary description of the project.
 - b) History - a brief history of the applicant, including its legal organization, i.e., articles of incorporation, if incorporated as a not-for-profit or for-profit entity, or statutory authority as a governmental entity, and approval of the project by the appropriate entity.
 - c) Use of funds - a 12 month marketing plan detailing use of the grant funds, which includes an itemized line item budget.
 - d) Results - a statement of the expected outcome and benefits to the State as a result of this project in terms of economic impact. Preference will be given to projects that demonstrate the greatest potential for increasing hotel/motel occupancy and travel into and throughout the State of Illinois stimulating the economic growth of the international tourism industry. The applicant must provide the Department with detailed economic impact.
 - e) Project implementation schedule - a list of the timelines for major project milestones and/or activities, including the start and end date of each activity.
 - f) The applicant shall demonstrate the ability to match proposed funding

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from other non-State sources.

Section 555.90 Evaluation Process**EMERGENCY**

The Department shall screen all applications to determine whether all requirements of the application have been addressed and whether the applicant is eligible for funding. Applicants shall be notified of deficiencies in applications and given an opportunity to correct those deficiencies through submission of additional documentation. A sufficient amount of time will be provided to correct deficiencies. If requested documentation is not provided by this time, application will be returned null and void. An internal review committee shall conduct an evaluation of each application and make recommendations of applications to be considered for funding based on the potential to increase overnight stays in Illinois and/or demonstrate the potential to develop international product. The committee will make recommendations for grant funding for approval or rejection by the Department Director.

Section 555.100 Agreement**EMERGENCY**

- a) When the Department sends notice to the applicant that the project has been approved for funding, an agreement shall be executed by the Director of the Department or the Director's designee on behalf of the Department. The project must not be initiated prior to approval by the Department. The agreement shall contain substantive provisions including, but not limited to, the following:
 - 1) a recitation of legal authority pursuant to which the agreement is made;
 - 2) an identification of the project scope and schedule, and the work or services to be performed or conducted by the applicant;
 - 3) an identification of the grant amount;
 - 4) the condition and manner by which the Department shall pay the grant amount subject at all times to annual appropriation by the General Assembly;
 - 5) the irrevocable promise of the applicant to pay the local match of the total project cost;
 - 6) the promise of the applicant to display the current Department identification on all projects funded through the grant program. Failure to include the current department logo in its entirety will result in a 10% penalty, which will be deducted from the grant award. Failure to include any identification will result in a total cost disallowance for that portion of the grant project;
 - 7) the promise of the applicant to furnish the Department a minimum of 10%, up to 20% if requested, of the total promotional

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- materials produced;
- 8) a promise by the applicant not to assign or transfer any of the rights, duties or obligations of the applicant without the express written consent of the Department;
 - 9) a promise by the applicant not to amend the agreement without the written consent of the Department. Failure to do so will result in a cost disallowance. The project must be completed by the completion date on the notice of grant award unless a written request for an extension is submitted no later than five working days prior to the award completion date;
 - 10) a covenant of the applicant to apply the grant amount only for the purposes of the project as stated in the application; and
 - 11) a covenant of the applicant to refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the program.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF PEREMPTORY AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: Peremptory Action:
Appendix A, Table O Amend
- 4) Reference to the specific State or Federal Court Order, Federal Rule or Statute which requires this Peremptory Rulemaking: Section 1-5(d) of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)]
- 5) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 6) Effective Date: February 3, 2000
- 7) A Complete Description of the Subjects and Issues Involved: In Section 310, Appendix A Table O RC-028 (Paraprofessional Human Services Employees, AFSCME), the Lock and Dam Tender title is being added with the monthly Salary range of \$1,829 - \$2,540, as of July 9, 1999. This inclusion was officially agreed to by the union on February 3, 2000.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed in Agency's Principal Office: February 3, 2000
- 10) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 11) This Rule is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.
- 12) Are there any proposed amendments pending to this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
310.280	Amend	23 Ill. Reg. 13285
310.280	Amend	24 Ill. Reg. 916
310.280	Amend	24 Ill. Reg. 1419
310.280	Amend	24 Ill. Reg. 2508
- 13) Statement of Statewide Objectives: This amendment to the Pay Plan pertains only to State employees subject to the Personnel Code and does not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.
- 14) The name, address and telephone number of the person to whom information and questions concerning this peremptory rule shall be directed to:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Mr. Michael Murphy
 Department of Central Management Services
 Division of Technical Services
 504 William G. Stratton Building
 Springfield, Illinois 62706
 217/782-5601

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYERS
 SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
 POSITION CLASSIFICATIONS
 CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
 PAY PLAN

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310.30	Jurisdiction
310.40	Pay Schedules
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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill.

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Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13678, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 12373, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; emergency amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20445, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 8, 1991; corrected at 14 Ill. Reg. 16092; emergency amendment expired on February 6, 1991; peremptory amendment at 14 Ill. Reg. 17098, effective October 26, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663,

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effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 6, 1993; amended at 17 Ill. Reg. 6441, effective February 2, 1993; amended at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3456, effective February 17, 1995; amended at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 11, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December

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November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. **3399**, effective February 3, 2000.

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22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15032, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 13489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13134, effective October 1, 1999; amended at 23 Ill. Reg. 13570 effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective

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Section 310.APPENDIX A Negotiated Rates of Pay

Section 310.VARIABLE O RC-028 (Paraprofessional Human Services Employees, APSCHS)

Effective July 1, 1997

S T E P S	1997		
	1a	1b	1c
Apparel Dry Goods Specialist III	1938	1996	2056
Assistant Reimbursement Officer	1546	1592	1640
Child Development Aide III	1724	1776	1829
Clinical Laboratory Associate	1546	1592	1640
Clinical Laboratory Technician I	1724	1776	1829
Clinical Laboratory Technician II	1885	1942	2000
Clinical Laboratory Technician III	1885	1942	2000
Compliance Officer	2062	2124	2188
Conservation Resource Technician I	1724	1776	1829
Conservation Resource Technician II	1967	2026	2087
Construction Supervisor I	1967	2026	2087
Construction Supervisor II	2262	2320	2400
Crime Scene Investigator	2942	3030	3121
Data Processing Administrative Specialist	2062	2124	2188
Data Processing Specialist	1885	1942	2000
Data Processing Technician	1660	1710	1761
Data Processing Technician Trainee	1495	1540	1586
Dental Assistant	1599	1647	1696
Dental Hygienist	1885	1942	2000
Electroencephalograph Technician	1599	1647	1696
Environmental Equipment Operator I	1885	1942	2000
Environmental Equipment Operator II	2062	2124	2188
Environmental Protection Technician I	1724	1776	1829
Environmental Protection Technician II	1724	1776	1829
Hearing & Speech	1495	1540	1586

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Technician I Hearing & Speech	1660	1710	1761
Technician II Historic Site Interpreter	1660	1710	1761
Historic Site Lead I	1967	2026	2087
Historic Site Lead II	2062	2124	2188
Housekeeper II	1399	1441	1484
Inhalation Therapist	1599	1647	1696
Intermittent Unemployment Insurance Technician	9.20	9.48	9.76
Laboratory Assistant	1399	1441	1484
Laboratory Associate I	1724	1776	1829
Laboratory Associate II	1885	1942	2000
Legal Research Assistant*	1967	2026	2087
Licensed Practical Nurse I	1709	1760	1813
Licensed Practical Nurse II	1792	1846	1901
Medical Records Assistant	1660	1710	1761
Medical Records Technician	1800	1854	1910
Office Administrative Specialist	1885	1942	2000
Office Specialist	1800	1854	1910
Pharmacist Lead Technician	1599	1647	1696
Pharmacist Technician	1495	1540	1586
Public Aid Eligibility Assistant	1599	1647	1696
Radiologic Technologist	1800	1854	1910
Radiologic Technologist Program Coordinator	1885	1942	2000
Rehabilitation Counselor	1967	2026	2087
Rehabilitation Counselor Aide I	1660	1710	1761
Rehabilitation Counselor Aide II	1800	1854	1910
Senior Ranger	2062	2124	2188
Site Technician I	1724	1776	1829
Site Technician II	1885	1942	2000
Social Service Community Planner	1800	1854	1910
State Police Crime Information Evaluator	1800	1854	1910
State Police Evidence Technician I	1885	1942	2000
State Police Evidence Technician II	1967	2026	2087
Statistical Research Technician	1800	1854	1910
Veterans Service Officer	1885	1942	2000
Vocational Instructor	1885	1942	2000

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S T E P S (cont.)				
4	5	6	7	
2388	2476	2559	2704	
1870	1931	1995	2102	
2115	2189	2268	2394	
1870	1931	1995	2102	
2115	2189	2268	2394	
2321	2405	2497	2636	
2559	2656	2759	2919	
2115	2189	2268	2394	
2431	2522	2619	2768	
2431	2522	2619	2768	
2817	2934	3052	3232	
3708	3877	4038	4289	
2559	2656	2759	2919	
1950	2013	2082	2192	
2115	2189	2268	2394	
1804	1860	1920	2017	
1950	2013	2082	2192	
2321	2405	2497	2636	
1950	2013	2082	2192	
2115	2189	2268	2394	
1804	1860	1920	2017	
2025	2101	2173	2287	
2431	2522	2619	2768	
2559	2656	2759	2919	
1676	1722	1776	1867	
1950	2013	2082	2192	
11-10	11-45	11-82	12-41	
1678	1735	1782	1874	
2115	2189	2268	2394	
2321	2405	2497	2636	
2431	2522	2619	2768	
2088	2170	2240	2360	
2204	2285	2367	2519	
2025	2101	2173	2287	
2211	2293	2371	2504	
2321	2405	2497	2636	
2211	2293	2371	2504	
1950	2013	2082	2192	
1804	1860	1920	2017	
1950	2013	2082	2192	
2211	2293	2371	2504	
2321	2405	2497	2636	
2431	2522	2619	2768	
2025	2101	2173	2287	
2211	2293	2371	2504	
2559	2656	2759	2919	

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S T E P S				
1c	1b	1a	1	2
2062	2124	2188	2254	2350
2469	2531	2595	2666	2759
2919	3000	3060	3122	3225
3295	3376	3436	3498	3561
3624	3684	3746	3808	3870
3931	4012	4072	4134	4215
4282	4363	4423	4485	4566
4677	4758	4818	4880	4961
5066	5147	5207	5269	5350
5451	5532	5592	5654	5735
5826	5907	5967	6029	6110
6205	6286	6346	6408	6489
6668	6749	6809	6871	6952
7115	7196	7256	7318	7399
7556	7637	7697	7759	7840
8000	8081	8141	8203	8284
8429	8510	8570	8632	8713
8852	8933	8993	9055	9136
9379	9460	9520	9582	9663
9886	9967	10027	10089	10170
10397	10478	10538	10600	10681
10882	10963	11023	11085	11166
11367	11448	11508	11570	11651
11836	11917	11977	12039	12120
12399	12480	12540	12602	12683
12936	13017	13077	13139	13220
13583	13664	13724	13786	13867
14100	14181	14241	14303	14384
14691	14772	14832	14894	14975
15266	15347	15407	15469	15550
15923	16004	16064	16126	16207
16554	16635	16695	16757	16838
17261	17342	17402	17464	17545
17936	18017	18077	18139	18220
18657	18738	18798	18860	18941
19248	19329	19389	19451	19532
19993	20074	20134	20196	20277
20768	20849	20909	20971	21052
21403	21484	21544	21606	21687
22140	22221	22281	22343	22424
22951	23032	23092	23154	23235
23666	23747	23807	23869	23950
24377	24458	24518	24580	24661
25102	25183	25243	25305	25386
25931	26012	26072	26134	26215
26766	26847	26907	26969	27050
27591	27672	27732	27794	27875
28386	28467	28527	28589	28670
29101	29182	29242	29304	29385
29916	29997	30057	30119	30200
30727	30808	30868	30930	31011
31538	31619	31679	31741	31822
32149	32230	32290	32352	32433
32954	33035	33095	33157	33238
33765	33846	33906	33968	34049
34660	34741	34801	34863	34944
35455	35536	35596	35658	35739
36250	36331	36391	36453	36534
37045	37126	37186	37248	37329
37840	37921	37981	38043	38124
38629	38710	38770	38832	38913
39424	39505	39565	39627	39708
40219	40300	40360	40422	40503
41004	41085	41145	41207	41288
41879	41960	42020	42082	42163
42654	42735	42795	42857	42938
43449	43530	43590	43652	43733
44244	44325	44385	44447	44528
45039	45120	45180	45242	45323
45824	45905	45965	46027	46108
46619	46700	46760	46822	46903
47404	47485	47545	47607	47688
48199	48280	48340	48402	48483
49004	49085	49145	49207	49288
49799	49880	49940	50002	50083
50594	50675	50735	50797	50878
51389	51470	51530	51592	51673
52184	52265	52325	52387	52468
53000	53081	53141	53203	53284
53795	53876	53936	53998	54079
54590	54671	54731	54793	54874
55385	55466	55526	55588	55669
56180	56261	56321	56383	56464
56975	57056	57116	57178	57259
57970	58051	58111	58173	58254
58765	58846	58906	58968	59049
59560	59641	59701	59763	59844
60355	60436	60496	60558	60639
61150	61231	61291	61353	61434
61945	62026	62086	62148	62229
62740	62821	62881	62943	63024
63535	63616	63676	63738	63819
64330	64411	64471	64533	64614
65125	65206	65266	65328	65409
65920	66001	66061	66123	66204
66715	66796	66856	66918	66999
67510	67591	67651	67713	67794
68305	68386	68446	68508	68589
69100	69181	69241	69303	69384
69895	69976	70036	70098	70179
70690	70771	70831	70893	70974
71485	71566	71626	71688	71769
72280	72361	72421	72483	72564
73075	73156	73216	73278	73359
73870	73951	74011	74073	74154
74665	74746	74806	74868	74949
75460	75541	75601	75663	75744
76255	76336	76396	76458	76539
77050	77131	77191	77253	77334
77845	77926	77986	78048	78129
78640	78721	78781	78843	78924
79435	79516	79576	79638	79719
80230	80311	80371	80433	80514
80925	81006	81066	81128	81209
81720	81801	81861	81923	82004
82515	82596	82656	82718	82799
83310	83391	83451	83513	83594
84105	84186	84246	84308	84389
84900	84981	85041	85103	85184
85695	85776	85836	85898	85979
86490	86571	86631	86693	86774
87285	87366	87426	87488	87569
88080	88161	88221	88283	88364
88875	88956	89016	89078	89159
89670	89751	89811	89873	89954
90465	90546	90606	90668	90749
91260	91341	91401	91463	91544
91955	92036	92096	92158	92239
92750	92831	92891	92953	93034
93545	93626	93686	93748	93829
94340	94421	94481	94543	94624
95135	95216	95276	95338	95419
95930	96011	96071	96133	96214
96725	96806	96866	96928	97009
97520	97601	97661	97723	97804
98315	98396	98456	98518	98599
99110	99191	99251	99313	99394
99905	99986	100046	100108	100189

NOTE: Employees subject to the alternative pension formula will be paid at rates that are 3% higher than those stated above.

Full-time employees who are receiving the flat-rate pension formula will receive a one-time lump sum payment of \$565.

Effective April 1, 1998

S T E P S				
1c	1b	1a	1	2
2062	2124	2188	2254	2350
2449	2531	2595	2666	2759
2919	3000	3060	3122	3225
3295	3376	3436	3498	3561
3624	3684	3746	3808	3870
3931	4012	4072	4134	4215
4282	4363	4423	4485	4566
4677	4758	4818	4880	4961
5066	5147	5207	5269	5350
5451	5532	5592	5654	5735
5826	5907	5967	6029	6110
6205	6286	6346	6408	6489
6668	6749	6809	6871	6952
7115	7196	7256	7318	7399
7556	7637	7697	7759	7840
8000	8081	8141	8203	8284
8429	8510	8570	8632	8713
8852	8933	8993	9055	9136
9379	9460	9520	9582	9663
9886	9967	10027	10089	10170
10397	10478	10538	10600	10681
10882	10963	11023	11085	11166
11367	11448	11508	11570	11651
11836	11917	11977	12039	12120
12399	12480	12540	12602	12683
12936	13017	13077	13139	13220
13583	13664	13724	13786	13867
14100	14181	14241	14303	14384
14691	14772	14832	14894	14975
15266	15347	15407	15469	15550
15923	16004	16064	16126	16207
16554	16635	16695	16757	16838
17261	17342	17402	17464	17545
17936	18017	18077	18139	18220
18583	18664	18724	18786	18867
19100	19181	19241	19303	19384
19691	19772	19832	19894	19975
20266	20347	20407	20469	20550
20923	21004	21064	21126	21207
21554	21635	21695	21757	21838
22261	22342	22402	22464	22545
22936	23017	23077	23139	23220
23583	23664	23724	23786	23867
24100	24181	24241	24303	24384
24691	24772	24832	24894	24975
25266	25347	25407	25469	25550
25923	26004	26064	26126	26207
26554	26635	26695	26757	26838
27261	27342	27402	27464	27545
27936	28017	28077	28139	28220
28583	28664	28724	28786	28867
29100	29181	29241	29303	29384
29691	29772	29832	29894	29975
30266	30347	30407	30469	30550
30923	31004	31064	31126	31207
31554	31635	31695	31757	31838
32261	32342	32402	32464	32545
32936	33017	33077	33139	33220
33583	33664	33724	33786	33867
34100	34181	34241	34303	34384
34691	34772	34832	34894	34975
35266	35347	35407	35469	35550
35923	36004	36064	36126	36207
36554	36635	36695	36757	36838
37261	37342	37402	37464	37545
37936	38017	38077	38139	38220
38583	38664	38724	38786	38867
39100	39181	39241	39303	39384
39691	39772	39832	39894	39975
40266	40347	40407	40469	40550
40923	41004	41064	41126	41207
41554	41635	41695	41757	41838
42261	42342	42402	42464	42545
42936	43017	43077	43139	43220
43583	43664	43724	43786	43867
44100	44181	44241	44303	44384
44691	44772	44832	44894	44975
45266	45347	45407	45469	45550
45923	46004	46064	46126	46207
46554	46635	46695	46757	46838
47261	47342	47402	47464	47545
47936	48017	48077	48139	48220
48583	48664	48724	48786	48867
49100	49181	49241	49303	49384
49691	49772	49832	49894	49975
50266	50347	50407	50469	50550
50923	51004	51064	51126	51207
51554	51635	51695	51757	51838
52261	52342	52402	52464	52545
52936	53017	53077	53139	53220
53583	53664	53724	53786	53867
54100	54181	54241	54303	54384
54691	54772	54832	54894	54975
55266	55347	55407	55469	55550
55923	56004	56064	56126	56207
56554	56635	56695	56757	56838
57261	57342	57402	57464	57545
57936	58017	58077	58139	58220
58583	58664	58724	58786	58867
59100	59181	59241	59303	59384
59691	59772	59832	59894	59975
60266	60347	60407	60469	60550
60923	61004	61064	61126	61207
61554	61635	61695	61757	61838
62261	62342	62402	62464	62545
62936	63017	63077	63139	63220
63583	63664	63724	63786	63867
64100	64181	64241	64303	64384
64691	64772	64832	64894	64975
65266	65347	65407	65469	65550
65923	66004	66064	66126	66207
66554	66635	66695	66757	66838
67261	67342	67402	67464	67545
67936	68017	68077	68139	68220
68583	68664	68724	68786	68867
69100	69181	69241	69303	69384
69691	69772	69832	69894	69975
70266	70347	70407	70469	70550
70923	71004	71064	71126	71207
71554	71635	71695	71757	71838
72261	72342	72402	72464	72545
72936	73017	73077	73139	73220
73583	73664	73724	73786	73867
74100	74181	74241	74303	74384
74691	74772	74832	74894	74975
75266	75347	75407	75469	75550
75923	76004	76064	76126	76207
76554	76635	76695	76757	76838
77261	77342	77402	77464	77545
77936	78017	78077	78139	78220
78583	78664	78724	78786	78867
79100	79181	79241	79303	79384
79691	79772	79832	79894	79975
80266	80347	80407	80469	80550
80923	81004	81064	81126	81207
81554	81635	81695	81757	81838
82261	82342	82402	82464	82545
82936	83017	83077	83139	83220
83583	83664	83724	83786	83867
84100	84181	84241	84303	84384
84691	84772	84832	84894	84975
85266	85347	85407	85469	85550
85923	86004	86064	86126	86207
86554	86635	86695	86757	86838
87261	87342	87402	87464	87545
87936	88017	88077	88139	88220
88583	88664	88724	88786	88867
89100	89181	89241	89303	89384
89691	89772	89832	89894	89975
90266	90347	90407	90469	90550
90923	91004	91064	91126	91207
91554	91635	91695	91757	91838
92261	92342	92402	92464	92545
92936	93017	93077	93139	93220
93583	93664	93724	93786	93867
94100	94181	94241	94303	94384
94691	94772	94832	94894	94975
95266	95347	95407	95469	95550
95923	96004	96064	96126	96207
96554	96635	96695	96757	96838
97261	97342	97402	97464	97545
97936	98017	98077	98139	98220
98583	98664	98724	98786	98867
99100	99181	99241	99303	99384
99691	99772	99832	99894	99975
100266	100347	100407	100469	100550
100923	101004	101064	101126	101207
101554	101635	101695	101757	101838
102261	102342	102402	102464	102545
102936	103017	103077	103139	103220
103583	103664	103724	103786	103867
104100	104181	104241	104303	104384
104691	104772	104832	104894	104975
105266	105347	105407	105469	105550
105923	106004	106064	106126	106207
106554	106635	106695	106757	106838
107261	107342	107402	107464	107545
107936	108017	108077	108139	108220
108583	108664	108724	108786	108867
109100	109181	109241	109303	109384
109691	109772	109832	109894	109975
110266	110347	110407	110469	110550
110923	111004	111064	111126	111207
111554	111635	111695	111757	111838
112261	112342	112402	112464	112545
112936	113017	113077	113139	113220
113583	113664	113724	113786	113867
114100	114181	114241	114303	114384
114691	114772	114832	114894	114975
115266	115347	115407	115469	115550
115923	116004	116064	116126	116207
116554	116635	116695	116757	116838
117261	117342	117402	117464	117545
117936	118017	118077	118139	118220
118583	118664	118724	118786	118867
119100	119181	119241	119303	119384
119691	119772	119832	119894	119975
120266	120347	120407	120469	120550
120923	121004	121064	121126	121207
121554	121635	121695	121757	121838
122261	122342	122402	122464	122545
122936	123017	123077	123139	123220
123583	123664	123724	123786	123867
124100	124181	124241	124303	124384
124691	124772	124832	124894	124975
125266	125347	125407	125469	125550
125923	126004	126064	126126	126207
126554	126635	126695	126757	126838
127261	127342	127402	127464	127545
127936	128017	128077	128139	128220
128583	128664	128724	128786	128867
129100	129181	129241	129303	129384
129691	129772	129832	129894	129975
130266	130347	130407	130469	130550
130923	131004	131064	131126	131207
131554	131635	131695	131757	131838
132261	132342	132402	132464	132545
132936	133017	133077	133139	133220
133583	133664	133724	133786	133867
134100	134181	134241	134303	134384
134691	134772	134832	134894	134975
135266	135347	135407	135469	135550
135923	136004	136064	136126	136207
136554	136635	136695	136757	136838
137261	137342	137402		

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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NOTICE OF PEREMPTORY AMENDMENT

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Data Processing	2124	2188	2254	2322	2421	2522	Aide I	1854	1910	1967	2026	2110	2188
Administrative Specialist							Rehabilitation Counselor						
Data Processing Specialist	1942	2000	2060	2122	2212	2295	Aide II	2124	2188	2254	2322	2421	2522
Data Processing Technician	1710	1761	1814	1868	1938	2014	Senior Ranger	1776	1829	1884	1941	2025	2098
Data Processing Technician	1540	1586	1634	1683	1740	1796	Site Technician I	1942	2000	2060	2122	2295	2395
Trainee							Site Technician II	1854	1910	1967	2026	2110	2188
Dental Assistant	1647	1696	1747	1799	1868	1935	Social Service Community Planner						
Dental Hygienist	1942	2000	2060	2122	2212	2295	State Police Crime Information Evaluator	1854	1910	1967	2026	2110	2188
Electroencephalograph Technician	1647	1696	1747	1799	1868	1935	State Police Evidence Technician I						
Environmental Equipment Operator I	1942	2000	2060	2122	2212	2295	State Police Evidence Technician II	1942	2000	2060	2122	2212	2295
Environmental Equipment Operator II	2124	2188	2254	2322	2421	2522	Statistical Research Technician	2026	2087	2150	2215	2307	2406
Environmental Protection Technician I	1647	1696	1747	1799	1868	1935	Veterans Service Officer	1854	1910	1967	2026	2110	2188
Environmental Protection Technician II	1776	1829	1884	1941	2025	2098	Vocational Instructor	1942	2000	2060	2122	2212	2295
Hearing & Speech Technician I	1540	1586	1634	1683	1740	1796							
Hearing & Speech Technician II	1710	1761	1814	1868	1938	2014	Apparel Dry Goods Specialist III						
Historic Site Interpreter	1710	1761	1814	1868	1938	2014	Assistant Reimbursement Officer	2460	2550	2636	2785		
Historic Site Lead I	2026	2087	2150	2215	2307	2406	Child Development Aide III	1926	1989	2055	2165		
Historic Site Lead II	2124	2188	2254	2322	2421	2522	Clinical Laboratory Associate	2178	2255	2336	2466		
Housekeeper II	1441	1484	1529	1575	1625	1677	Clinical Laboratory Technician I	1926	1989	2055	2165		
Inhalation Therapist	1647	1696	1747	1799	1868	1935							
Intermittent Unemployment Insurance Technician	9.48	9.76	10.06	10.36	10.71	11.05	Clinical Laboratory Technician II	2178	2255	2336	2466		
Laboratory Assistant	1441	1484	1529	1575	1628	1681	Compliance Officer	2391	2477	2572	2715		
Laboratory Associate I	1776	1829	1884	1941	2025	2098	Conservation Resource Technician I	2636	2736	2842	3007		
Laboratory Associate II	1942	2000	2060	2122	2212	2295	Conservation Resource Technician II	2178	2255	2336	2466		
Legal Research Assistant	2026	2087	2150	2215	2307	2406	Construction Supervisor I	2504	2598	2698	2851		
Licensed Practical Nurse I	1846	1901	1958	2017	2106	2185	Construction Supervisor II	2504	2598	2698	2851		
Licensed Practical Nurse II	1710	1761	1814	1868	1938	2014	Crime Scene Investigator	2504	2602	2702	2851		
Medical Records Assistant	1854	1910	1967	2026	2110	2188	Data Processing Administrative Specialist	3819	3993	4159	4418		
Medical Records Technician	1942	2000	2060	2122	2212	2295	Data Processing Specialist	2636	2736	2842	3007		
Office Administrative Specialist							Data Processing Specialist	2391	2477	2572	2715		
Office Specialist	1854	1910	1967	2026	2110	2188	Data Processing Technician	2086	2164	2238	2356		
Pharmacist Lead Technician	1647	1696	1747	1799	1868	1935	Data Processing Technician	1858	1916	1978	2078		
Pharmacist Technician	1540	1586	1634	1683	1740	1796	Trainee						
Public Aid Eligibility Assistant	1647	1696	1747	1799	1868	1935	Dental Assistant	2009	2073	2144	2258		
Radiologic Technologist	1854	1910	1967	2026	2110	2188	Dental Hygienist	2391	2477	2572	2715		
Radiologic Technologist Program Coordinator	1942	2000	2060	2122	2212	2295	Electroencephalograph Technician	2009	2073	2144	2258		
Ranger	2026	2087	2150	2215	2307	2406							
Rehabilitation Counselor	1710	1761	1814	1868	1938	2014							

S T E P S (cont.)

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NOTICE OF PEREMPTORY AMENDMENT

Environmental Equipment Operator I	2391	2477	2572	2715
Environmental Equipment Operator II	2636	2736	2842	3007
Environmental Protection Technician I	2009	2073	2144	2258
Environmental Protection Technician II	2178	2255	2336	2446
Hearing & Speech Technician I	1858	1916	1978	2078
Hearing & Speech Technician II	2086	2164	2238	2356
Historic Site Interpreter	2086	2164	2238	2356
Historic Site Lead I	2504	2598	2698	2851
Historic Site Lead II	2636	2736	2842	3007
Housekeeper II	1726	1774	1829	1923
Inhalation Therapist	2009	2073	2144	2258
Intermittent Unemployment Insurance Technician	11.43	11.79	12.17	12.79
Laboratory Assistant	1728	1787	1835	1930
Laboratory Associate I	2178	2255	2336	2466
Laboratory Associate II	2391	2477	2572	2715
Legal Research Assistant	2504	2598	2698	2851
Licensed Practical Nurse I	2151	2235	2307	2431
Licensed Practical Nurse II	2270	2354	2438	2595
Medical Records Assistant	2086	2164	2238	2356
Medical Records Technician	2277	2362	2442	2579
Office Administrative Specialist	2391	2477	2572	2715
Office Specialist	2277	2362	2442	2579
Pharmacist Lead Technician	2009	2073	2144	2258
Pharmacist Technician	1858	1916	1978	2078
Public Aid Eligibility Assistant	2009	2073	2144	2258
Radiologic Technologist	2277	2362	2442	2579
Radiologic Technologist Program Coordinator	2391	2477	2572	2715
Ranger	2504	2598	2698	2851
Rehabilitation Counselor Aide I	2086	2164	2238	2356
Rehabilitation Counselor Aide II	2277	2362	2442	2579
Senior Ranger	2636	2736	2842	3007
Site Technician I	2178	2255	2336	2466
Site Technician II	2391	2477	2572	2715
Social Service Community Planner	2277	2362	2442	2579
State Police Crime Information Evaluator	2277	2362	2442	2579

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NOTICE OF PEREMPTORY AMENDMENT

State Police Evidence Technician I	2391	2477	2572	2715
State Police Evidence Technician II	2504	2598	2698	2851
Statistical Research Technician	2277	2362	2442	2579
Veterans Service Officer	2391	2477	2572	2715
Vocational Instructor	2391	2477	2572	2715

NOTE: Employees subject to the alternative pension formula will be paid at rates that are 3% higher than those stated above.

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S T E P S				
	1c	1b	1a	1
Apparel Dry Goods Specialist III	2056	2118	2182	2247
Assistant Reimbursement Officer	1640	1689	1740	1792
Child Development Aide III	1829	1884	1941	1999
Clinical Laboratory Associate	1640	1689	1740	1792
Clinical Laboratory Technician I	1829	1884	1941	1999
Clinical Laboratory Technician II	2000	2060	2122	2186
Compliance Officer	2188	2254	2322	2392
Conservation Resource Technician I	1829	1884	1941	1999
Conservation Resource Technician II	2087	2150	2215	2281
Construction Supervisor I	2087	2150	2215	2281
Construction Supervisor II	2400	2472	2546	2622
Crime Scene Investigator	3121	3215	3311	3410
Data Processing	2188	2254	2322	2392
Administrative Specialist	2000	2060	2122	2186
Data Processing Specialist	1761	1814	1868	1924
Data Processing Technician	1586	1634	1683	1733
Data Processing Technician Trainee	1696	1747	1799	1853
Dental Assistant	2000	2060	2122	2186
Dental Hygienist	1696	1747	1799	1853
Electroencephalograph Technician	2000	2060	2122	2186
Environmental Equipment Operator I	2188	2254	2322	2392
Environmental Equipment Operator II	1696	1747	1799	1853

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NOTICE OF PEREMPTORY AMENDMENT

Technician I	1829	1884	1941	1999	2086	2161
Environmental Protection Technician II						
Hearing & Speech Technician I	1586	1634	1683	1733	1792	1850
Hearing & Speech Technician II	1761	1814	1868	1924	1996	2074
Historic Site Interpreter	1761	1814	1868	1924	1996	2074
Historic Site Lead I	2087	2150	2215	2281	2376	2478
Historic Site Lead II	2188	2254	2322	2392	2494	2598
Housekeeper II	1484	1529	1575	1622	1677	1731
Inhalation Therapist	1696	1747	1799	1853	1924	1996
Intermittent Unemployment Insurance Technician	976	10.06	10.36	10.66	11.03	11.38
Laboratory Assistant	1484	1529	1575	1622	1677	1731
Laboratory Associate I	1829	1884	1941	1999	2086	2161
Laboratory Associate II	2000	2060	2122	2186	2278	2364
Legal Research Assistant	2087	2150	2215	2281	2376	2478
Licensed Practical Nurse I	1813	1867	1923	1981	2054	2137
Licensed Practical Nurse II	1901	1958	2017	2078	2169	2251
Medical Records Assistant	1761	1814	1868	1924	1996	2074
Medical Records Technician	1910	1967	2026	2087	2173	2254
Office Administrative Specialist	2000	2060	2122	2186	2278	2364
Office Specialist	1910	1967	2026	2087	2173	2254
Pharmacist Lead Technician	1696	1747	1799	1853	1924	1993
Pharmacist Technician	1586	1634	1683	1733	1792	1850
Public Aid Eligibility Assistant	1910	1967	2026	2087	2173	2254
Radiologic Technologist	1910	1967	2026	2087	2173	2254
Radiologic Technologist	2000	2060	2122	2186	2278	2364
Program Coordinator						
Ranger	2087	2150	2215	2281	2376	2478
Rehabilitation Counselor Aide I	1761	1814	1868	1924	1996	2074
Rehabilitation Counselor Aide II	1910	1967	2026	2087	2173	2254
Senior Ranger	2188	2254	2322	2392	2494	2598
Site Technician I	1829	1884	1941	1999	2086	2161
Site Technician II	2000	2060	2122	2186	2278	2364
Social Service Community Planner	1910	1967	2026	2087	2173	2254
State Police Crime Information Evaluator	1910	1967	2026	2087	2173	2254
State Police Evidence Technician I	2000	2060	2122	2186	2278	2364
State Police Evidence Technician II	2087	2150	2215	2281	2376	2478
Statistical Research Technician	1910	1967	2026	2087	2173	2254

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Veterans Service Officer	2000	2060	2122	2186	2278	2364
Vocational Instructor	2000	2060	2122	2186	2278	2364
Apparel Dry Goods Specialist III						
Assistant Reimbursement Officer						
Child Development Aide III						
Clinical Laboratory Associate						
Clinical Laboratory Technician I						
Clinical Laboratory Technician II						
Compliance Officer						
Conservation Resource Technician I						
Conservation Resource Technician II						
Construction Supervisor I						
Construction Supervisor II						
Crime Scene Investigator						
Data Processing Administrative Specialist						
Data Processing Specialist						
Data Processing Technician						
Data Processing Technician Trainee						
Dental Assistant						
Dental Hygienist						
Electroencephalograph Technician						
Environmental Equipment Operator I						
Environmental Equipment Operator II						
Environmental Protection Technician I						
Environmental Protection Technician II						
Hearing & Speech Technician I						
Hearing & Speech Technician II						
Historic Site Interpreter						
Historic Site Lead I						
Historic Site Lead II						

S T E P S (cont.)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Hearing & Speech Technician I	1685	1735	1785	1836	1897	1957
Hearing & Speech Technician II	1865	1920	1976	2033	2107	2188
Historic Site Interpreter	1865	1920	1976	2033	2107	2188
Historic Site Lead I	2201	2266	2333	2401	2499	2604
Historic Site Lead II	2305	2373	2443	2515	2620	2727
Housekeeper II	1580	1626	1674	1722	1779	1834
Inhalation Therapist	1798	1851	1904	1960	2033	2104
Intermittent Unemployment Insurance Technician (Hourly)	10.37	10.68	10.98	11.30	11.67	12.04
Laboratory Assistant	1580	1626	1674	1722	1779	1834
Laboratory Associate I	1935	1992	2051	2110	2200	2277
Laboratory Associate II	2112	2173	2237	2303	2398	2486
Legal Research Assistant	2201	2266	2333	2401	2499	2604
Licensed Practical Nurse I	1919	1975	2032	2092	2167	2235
Licensed Practical Nurse II	2010	2068	2129	2192	2286	2370
Medical Records Assistant	1865	1920	1976	2033	2107	2188
Medical Records Technician	2019	2078	2138	2201	2290	2373
Office Administrative Specialist	2112	2173	2237	2303	2398	2486
Office Specialist	2019	2078	2138	2201	2290	2373
Pharmacist Lead Technician	1798	1851	1904	1960	2033	2104
Pharmacist Technician	1685	1735	1785	1836	1897	1957
Public Aid Eligibility Assistant	1798	1851	1904	1960	2033	2104
Radiologic Technologist	2019	2078	2138	2201	2290	2373
Radiologic Technologist Program Coordinator	2112	2173	2237	2303	2398	2486
Ranger	2201	2266	2333	2401	2499	2604
Rehabilitation Counselor	1865	1920	1976	2033	2107	2188
Rehabilitation Counselor Aide I	2019	2078	2138	2201	2290	2373
Rehabilitation Counselor Aide II	2019	2078	2138	2201	2290	2373
Senior Ranger	2305	2373	2443	2515	2620	2727
Site Technician I	1935	1992	2051	2110	2200	2277
Site Technician II	2112	2173	2237	2303	2398	2486
Social Service Community Planner	2019	2078	2138	2201	2290	2373
State Police Crime Information Evaluator	2019	2078	2138	2201	2290	2373
State Police Evidence Technician I	2112	2173	2237	2303	2398	2486
State Police Evidence Technician II	2201	2266	2333	2401	2499	2604
Statistical Research Technician	2019	2078	2138	2201	2290	2373
Veterans Service Officer	2112	2173	2237	2303	2398	2486
Vocational Instructor	2305	2373	2443	2515	2620	2727

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Apparel Dry Goods Specialist III	2662	2757	2848	2931	3007
Assistant Reimbursement Officer	2095	2162	2232	2348	
Child Development Aide III	2362	2444	2530	2668	
Clinical Laboratory Associate	2095	2162	2232	2348	
Clinical Laboratory Technician I	2362	2444	2530	2668	
Clinical Laboratory Technician II	2588	2679	2780	2931	
Compliance Officer	2848	2954	3066	3241	
Conservation Resource Technician I	2362	2444	2530	2668	
Conservation Resource Technician II	2708	2808	2914	3077	
Construction Supervisor I	2708	2808	2914	3077	
Construction Supervisor II	3130	3258	3387	3583	
Crime Scene Investigator	4104	4288	4464	4739	
Data Processing Administrative Specialist	2848	2954	3066	3241	
Data Processing Specialist	2588	2679	2780	2931	
Data Processing Technician	2265	2347	2426	2551	
Data Processing Technician Trainee	2023	2084	2150	2256	
Dental Assistant	2183	2251	2326	2447	
Dental Hygienist	2588	2679	2780	2931	
Electroencephalograph Technician	2183	2251	2326	2447	
Environmental Equipment Operator I	2588	2679	2780	2931	
Environmental Equipment Operator II	2848	2954	3066	3241	
Environmental Protection Technician I	2183	2251	2326	2447	
Environmental Protection Technician II	2362	2444	2530	2668	
Hearing & Speech Technician I	2023	2084	2150	2256	
Hearing & Speech Technician II	2265	2347	2426	2551	
Historic Site Interpreter	2265	2347	2426	2551	
Historic Site Lead I	2708	2808	2914	3077	
Historic Site Lead II	2848	2954	3066	3241	
Housekeeper I	1885	1948	2009	2099	
Inhalation Therapist	2183	2251	2326	2447	
Intermittent Unemployment	12.45	12.82	13.23	13.88	

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Insurance Technician	1885	1948	1958	2099
Laboratory Assistant	2362	2444	2530	2668
Laboratory Associate I	2588	2679	2780	2931
Laboratory Associate II	2708	2808	2914	3077
Legal Research Assistant	2334	2423	2499	2631
Licensed Practical Nurse I	2460	2549	2638	2805
Licensed Practical Nurse II	2285	2347	2426	2551
Medical Records Assistant	2467	2557	2642	2787
Medical Records Technician	2588	2679	2780	2931
Office Administrative Specialist	2467	2557	2642	2787
Office Specialist	2183	2251	2326	2447
Pharmacist Lead Technician	2023	2084	2150	2256
Pharmacist Technician	2183	2251	2326	2447
Public Aid Eligibility Assistant	2467	2557	2642	2787
Radiologic Technologist	2588	2679	2780	2931
Radiologic Technician	2708	2808	2914	3077
Program Coordinator	2285	2347	2426	2551
Ranger	2467	2557	2642	2787
Rehabilitation Counselor	2848	2954	3066	3241
Rehabilitation Counselor Aide I	2362	2444	2530	2668
Rehabilitation Counselor Aide II	2558	2679	2780	2931
Senior Ranger	2467	2557	2642	2787
Site Technician I	2467	2557	2642	2787
Site Technician II	2467	2557	2642	2787
Social Service Community Planner	2467	2557	2642	2787
State Police Crime Information Evaluator	2588	2679	2780	2931
State Police Evidence Technician I	2708	2808	2914	3077
State Police Evidence Technician II	2467	2557	2642	2787
Statistical Research Technician	2588	2679	2780	2931
Veterans Service Officer	2848	2954	3066	3241
Vocational Instructor				

Effective July 9, 1999

Lock & Dam Tender	1c	S T E P S			
	1b	1a	1	2	3
	1935	1992	2051	2110	2200
				2277	2277
S T E P S (cont.)					
	4	5	6	7	

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

	2362	2444	2530	2668
(Source: Amended at 24 Ill. Reg. 99-99 , effective February 3, 2000)				

OFFICE OF BANKS AND REAL ESTATE

Agency Response to Joint Committee Objection to Emergency Rules

Agency: Office of Banks & Real Estate

Heading of the Part: Real Estate License Act of 2000

Code Citation: 68 Ill. Adm. Code 1450

Register Citation: 24 Ill. Reg. 704, January 14, 2000

If the rulemaking will be initiated, date notice of rulemaking was, or is expected to be, published in the Illinois Register: February 25, 2000

Agency Response to Specific Joint Committee Objections: The Office of Banks and Real Estate agrees with the JCAR objection noting that the agency failed to specify the rules of practice governing administrative hearings under the Real Estate License Act emergency rulemaking, in Section 1450.255. The agency amended this Section to cite 68 Ill. Adm. Code 1110 as the rules under which the real estate disciplinary prosecutions will be conducted. (See a copy of the modified text in this issue of the *Illinois Register*.)

OFFICE OF BANKS AND REAL ESTATE

Notice of Modification of Emergency Rules in Response To An Objection Of The Committee On Administrative Rules

1) Heading of the Part: Real Estate License Act of 2000

2) Code Citation: 68 Ill. Adm. Code 1450

3) Section Number: Section 1450.255

4) Notice of Emergency Rules published in the Illinois Register: January 14, 2000, 24 Ill. Reg. 704

5) JCAR Statement of Objection to Emergency Rules published in the Illinois Register: February 25, 2000

6) Date Agency submitted this modification to JCAR for approval: February 8, 2000

7) Summary of Action taken by the agency: The Office of Banks and Real Estate in Section 1450.255 of the Emergency Rule failed to delineate the specific citation under which the real estate disciplinary prosecutions will be conducted. The agency is amending Section 1450.255 to include the specific citation.

The full text of Section 1450.255 as modified is on the next page:

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATE
SUBCHAPTER D: PROFESSIONS AND OCCUPATIONS

PART 1450

REAL ESTATE LICENSE ACT OF 2000

Section 1450.255 Hearings
EMERGENCY

All disciplinary hearings brought before the Board under Article 20 of the Act shall be conducted in accordance with the Rules of Practice in Administrative Hearings as provided for in 68 Ill. Adm. Code 1110 ~~the Illinois Administrative Code~~.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

LIQUOR CONTROL COMMISSION

Heading of the Part: The Illinois Liquor Control Commission

Code Citation: 11 Ill. Adm. Code 100

Section Numbers: 100.130

Date Originally Published in the Illinois Register: 10/15/99
23 Ill Reg 12518

At its meeting on February 8, 2000, the Joint Committee on Administrative Rules objected to Section 100.130 of the above cited rulemaking because the substantial increase in waiver fees will be economically burdensome on small businesses that hold a 90-day waiver.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION TO
EMERGENCY RULEMAKING

OFFICE OF BANKS AND REAL ESTATE

Heading of the Part: Real Estate License Act

Code Citation: 68 Ill. Adm. Code 1450

Section Numbers: 1450.255

Date Originally Published in the Illinois Register: 1/14/00
24 Ill. Reg 704

At its meeting on February 8, 2000, the Joint Committee on Administrative Rules objected to Section 1450.255 of the emergency rules of the Office of Banks and Real Estate titled Real Estate license Act (68 Ill. Adm. Code 1450) because it fails to state what rules of practice govern administrative hearings conducted by the Office, as required by Section 10-5 of the IAPA.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

DEPARTMENT OF AGRICULTURE

JANUARY 2000 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Land Application Authorization Program, 8 Ill. Adm. Code 258

1) Rulemaking:

A) Description: As a result of the development of rules at 8 Ill. Adm. Code 259, Agrichemical Facility Response Action Program, remediation suitability determination levels for several pesticides listed in Part 258 need to be changed. The changes will provide consistency between these two related rules.

B) Statutory Authority: Illinois Pesticide Act [415 ILCS 60/19]

C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register. A public hearing will be held near the end of the public comment period.

D) Date Agency anticipates First Notice: March 2000

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. The consistency of rules provided by this rulemaking will benefit small businesses such as agrichemical facilities.

F) Agency contact person for information:

Warren Goetsch
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL 62794-9281
217/785-4233
FAX: 217/524-4882

G) Related rulemakings and other pertinent information: The rules for the Agrichemical Facility Response Action Program, 8 Ill. Adm. Code 259, are related to this rulemaking. Part 259 is anticipated to go to first notice in February 2000.

b) Part(s) (Heading and Code Citation):

1) Rulemaking:

A) Description: The Illinois Rivers-Friendly Farmer Program Act

DEPARTMENT OF AGRICULTURE

JANUARY 2000 REGULATORY AGENDA

authorizes farmers to submit a written application to the Illinois Department of Agriculture to gain the Illinois Rivers-Friendly Farmer designation. The designation demonstrates that farmers are using environmentally sound farming practices which benefit Illinois' rivers. This is the first rulemaking since the passage of the legislation.

- B) Statutory Authority: Illinois Rivers-Friendly Farmer Program Act-HB 2605

C) Schedule meeting/hearing date: No dates scheduled

D) Date Agency anticipates First Notice: April 1, 2000

E) Effect on small businesses, small municipalities or not for profit corporations: No impacts expected

F) Agency contact person for information:

Steve Chard
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL 62794-9281
217/782-6297
FAX: 217/557-0993

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Farmland Preservation Act, 8 Ill. Adm. Code 700

1) Rulemaking:

A) Description: The Farmland Preservation Act requires that state agency policy statements and working agreements on farmland preservation shall be updated by the state agency and reviewed and approved by the Department of Agriculture every three years. The purpose of the rulemaking activity is to update the policy statements and working agreements, as necessary, to protect Illinois' agricultural land base from needless state agency farmland preservation impacts.

B) Statutory Authority: Farmland Preservation Act (505 ILCS 75/1-8)

C) Schedule meeting/hearing date: No dates scheduled

D) Date Agency anticipates First Notice: October 2000

DEPARTMENT OF AGRICULTURE

JANUARY 2000 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not for profit corporations: No impacts anticipated

F) Agency contact person for information:

James R. Hartwig
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL 62794-9281
217/782-6297
FAX: 217/557-0993

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Swine Disease Control and Eradication Act, 8 Ill. Adm. Code 105

1) Rulemaking:

A) Description: Adopt a Voluntary Porcine Reproductive and Respiratory Disease (PRRS) Program for Illinois swine herds.

B) Statutory Authority: Illinois Swine Disease Control and Eradication Act [510 ILCS 100/1 et seq.]

C) Schedule meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in April 2000, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: February 2000

E) Effect on small businesses, small municipalities or not for profit corporations: No direct effect as this would be a voluntary program.

F) Agency contact person for information:

Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL 62794-9281
217/782-4944
FAX: 217/524-7702

DEPARTMENT OF AGRICULTURE

JANUARY 2000 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: None
- e) Part(s) (Heading and Code Citation): Illinois Pseudorabies Control Act, 8 Ill. Adm. Code 115
- 1) Rulemaking:
- A) Description: Modify the Illinois Pseudorabies Control Program as dictated by changes in the Pseudorabies State-Federal-Industry Program Standards, and adopt the January 2000 edition of this program.
- B) Statutory Authority: Illinois Pseudorabies Control Act [510 ILCS 90/1 et seq.]
- C) Schedule meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in April 2000, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: February 2000
- E) Effect on small businesses, small municipalities or not for profit corporations: No direct effect on Illinois producers as changes would apply to animals being imported into Illinois.
- F) Agency contact person for information:
- Dr. Richard Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL 62794-9281
217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Illinois Bovidae and Cervidae Tuberculosis Eradication Act, 8 Ill. Adm. Code 80
- 1) Rulemaking:
- A) Description: Adopt the January 22, 1999 edition of the

DEPARTMENT OF AGRICULTURE

JANUARY 2000 REGULATORY AGENDA

- Bovine Tuberculosis Eradication Uniform Methods and Rules
- B) Statutory Authority: Illinois Bovidae and Cervidae Tuberculosis Eradication Act [510 ILCS 35/1]
- C) Schedule meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in April 2000, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: February 2000
- E) Effect on small businesses, small municipalities or not for profit corporations: No direct effect as we are only adopting the latest edition of this publication. The changes in this book were previously adopted in their amendment form.
- F) Agency contact person for information:
- Dr. Richard D. Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL 62794-9281
217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: None
- g) Part(s) (Heading and Code Citation): Diseased Animals, 8 Ill. Adm. Code 85
- 1) Rulemaking:
- A) Description: Adopt import and selling requirements for non-human members of the primate family. Change the retest window for cervid herds enrolled under the Voluntary Paratuberculosis Certification Program from 60 days before or after the anniversary date to 90 days. Approve the use of the dip-stick test for Johne's disease.
- B) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50/1 et seq.]

DEPARTMENT OF AGRICULTURE

JANUARY 2000 REGULATORY AGENDA

C) Schedule meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in April 2000, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: February 2000

E) Effect on small businesses, small municipalities or not for profit corporations: Would require persons dealing in the sale or transportation of members of the non-human primate family to obtain tests for certain diseases and health certificates prior to change of ownership or transport. The change for the testing period for cervids would make it easier for herds that are also certified as tuberculous and brucellosis free, as these programs have the 90-day window already in place, and the animals could be tested for all three programs at the same time. Approval of the dip-stick test for John's disease will allow private veterinarians to use an on-site test to screen herds for John's disease.

F) Agency contact person for information:

Dr. Richard D. Hull
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL 62794-9281
217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): Dead Animal Disposal Act, 8 Ill. Adm. Code 90

1) Rulemaking:

A) Description: Section 90.110 will be amended to add a requirement that all persons operating composting facilities for the disposal of dead animals must record the location of the compost with the Department and make the compost available for inspection.

B) Statutory Authority: Illinois Dead Animal Disposal Act [225 ILCS 610]

DEPARTMENT OF AGRICULTURE

JANUARY 2000 REGULATORY AGENDA

C) Schedule meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in April 2000, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: February 2000

E) Effect on small businesses, small municipalities or not for profit corporations: Persons operating a compost for the disposal of dead animals would be required to record the location of the compost with the Department and make the facility available for inspection.

F) Agency contact person for information:

Dr. David Bromwell
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL 62794-9281
217/782-6657
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: None

i) Part(s) (Heading and Code Citation): Animal Welfare Act, 8 Ill. Adm. Code 25

1) Rulemaking:

A) Description: Regulations will be developed governing boarding facilities known as "day care" centers for animals.

B) Statutory Authority: Animal Welfare Act [225 ILCS 605] and the Illinois Diseased Animals Act [510 ILCS 50]

C) Schedule meeting/hearing date: Proposed amendments to this Part must be approved by the Advisory Board of Livestock Commissioners. This advisory board will meet in April 2000, and a public hearing on the proposed rulemaking will run concurrently with the public meeting of the advisory board. Written comments may also be submitted during the 45-day public comment period following publication of the proposed rulemaking in the *Illinois Register*.

DEPARTMENT OF AGRICULTURE

JANUARY 2000 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: February 2000
- E) Effect on small businesses, small municipalities or not for profit corporations: Persons operating boarding facilities known as "day care" facilities for animals will be required to meet certain requirements to operate these types of facilities.
- F) Agency contact person for information:
Dr. David Brownell
Illinois Department of Agriculture
P.O. Box 19281
Springfield IL 62794-9281
217/782-6657
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: None
- J) Part(s) (Heading and Code Citation): Motor Fuel Standards Act, 8 Ill. Adm. Code 850
- 1) Rulemaking:
- A) Description: This Part will be amended to delete procedures for charging consumers when motor fuel samples are analyzed to be consistent with changes made to the Act.
- B) Statutory Authority: Motor Fuel Standards Act [615 ILCS 370]
- C) Scheduled meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: April 2000
- E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is anticipated
- F) Agency contact person for information:
Sid Colbrook
Illinois Department of Agriculture
State Fairgrounds
Springfield IL 62794-9281
217/782-3817
FAX: 217/524-7801

DEPARTMENT OF AGRICULTURE

JANUARY 2000 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: None
- K) Part(s) (Heading and Code Citation): Egg and Egg Products Act, 8 Ill. Adm. Code 65
- 1) Rulemaking:
- A) Description: The United States Department of Agriculture (USDA) has issued a prohibition on the repackaging of eggs packed under USDA's voluntary grading program. Amendments will be made relating to the enforcement of the Illinois Egg and Egg Products Act to follow USDA's standards that eggs sold for human consumption cannot be repackaged. The rules will be amended to clarify that the 30 day expiration date should be marked on each carton of eggs.
- B) Statutory Authority: Illinois Egg and Egg Products Act [410 ILCS 615]
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: April 2000
- E) Effect on small businesses, small municipalities or not for profit corporations: Egg packagers and distributors will not be able to regrade and repackage older eggs. It is seldom that eggs are repackaged and resold to consumers. This amendment will insure that eggs being sold for human consumption are fresh.
- F) Agency contact person for information:
Sid Colbrook
Illinois Department of Agriculture
State Fairgrounds
Springfield IL 62794-9281
217/782-3817
FAX: 217/524-7801
- G) Related rulemakings and other pertinent information: None
- L) Part(s) (Heading and Code Citation): Weights and Measures Act, 8 Ill. Adm. Code 600
- 1) Rulemaking:

DEPARTMENT OF AGRICULTURE

JANUARY 2000 REGULATORY AGENDA

A) Description: The National Type Evaluation Program has been adopted as the standards for new weighing and measuring devices. Procedures need to be implemented to provide device users and installers information regarding the installation or transfer of weighing and measuring devices. Pursuant to the Illinois Weights and Measures Act, the Department collects fees for device inspections. There are some devices such as mass flow meters that do not have an established inspection fee. Amendments to this Part will add fees for all devices being inspected by the Department that are not included in the current fee schedule.

B) Statutory Authority: Weights and Measures Act [225 ILCS 470]

C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: April 2000

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will: (1) give businesses and service personnel direction about the installation and transfer of a weighing or measuring device; and (2) establish fees for businesses to test and certify weighing and measuring devices not currently included in the fee schedule.

F) Agency contact person for information:

Sid Colbrook
Illinois Department of Agriculture
State Fairgrounds
Springfield IL 62794-9281
217/782-3817
FAX: 217/524-7801

G) Related rulemakings and other pertinent information: None

m) Part(s) (Heading and Code Citation): Administrative Rules (Formal Administrative Proceedings); Contested Cases; Petitions; Public Disclosure), 8 Ill. Adm. Code 1

1) Rulemaking:

A) Description: The Department's procedural rules will be updated, including adding a provision establishing a fee for

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any party requesting a copy of an administrative hearing transcript, and reorganized.

B) Statutory Authority: Sections 5-10, 5-145, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-40, 10-50, and 10-60 of the Illinois Administrative Procedure Act [5 ILCS 100/5-10, 5-145, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-40, 10-50, and 10-60] and the Freedom of Information Act [5 ILCS 140]

C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: April 2000

E) Effect on small businesses, small municipalities or not for profit corporations: Any party requesting a copy of an administrative hearing transcript will be responsible for the costs associated with the transcription.

F) Agency contact person for information:

Cynthia Ervin
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL 62794-9281
217/785-4507
FAX: 217/785-4505

G) Related rulemakings and other pertinent information: None

n) Part(s) (Heading and Code Citation): Freedom of Information Act, 2 Ill. Adm. Code 701

1) Rulemaking:

A) Description: Amendments to this Part will update these rules in accordance with statutory amendments. The fee schedule in Section 701.140 will also be amended and updated.

B) Statutory Authority: Freedom of Information Act [5 ILCS 140]

C) Schedule meeting/hearing date: None

D) Date Agency anticipates First Notice: First Notice

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publication is not required under this Part.

- E) Effect on small businesses, small municipalities or not for profit corporations: There will be an increase in duplication costs for those requesting copies under the FOIA.

F) Agency contact person for information:

Cynthia Ervin
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL 62794-9281
217/785-4507
FAX: 217/785-4505

- G) Related rulemakings and other pertinent information: None

- O) Part(s) (Heading and Code Citation): Illinois State Fair, and DuQuoin State Fair, Non-Fair Space Rental and the General Operation of the State Fairgrounds, 8 Ill. Adm. Code 270

1) Rulemaking:

- A) Description: New regulations will be developed regarding advertising in State Fair publications [20 ILCS 210/6]. Amendments to "Facility Availability" (Section 270.420) will be amended to facilitate additional rentals to maximize income throughout the non-fair season. A clarification is needed to further explain the Department's policy of allowing last year's lessees to have first right to the same dates in subsequent years in Section 270.380 concerning "Application for Space".

- B) Statutory Authority: State Fair Act [20 ILCS 210] and Section 40.14 and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16 and 40.14]

- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: April 2000

- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect those wishing to rent space/buildings on the fairgrounds and those advertising in fair publications.

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F) Agency contact person for information:

Bud Ford
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL 62794-9281
217/782-0771
FAX: 217/782-9115

- G) Related rulemakings and other pertinent information: None
- P) Part(s) (Heading and Code Citation): Meat and Poultry Inspection Act, 8 Ill. Adm. Code 125

1) Rulemaking:

- A) Description: Expanding provisions for existing Section 125.141 by requiring all licensed plants, Type I and Type II, to operate and maintain Sanitation SOP at all times.

- B) Statutory Authority: Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16]

- C) Scheduled meeting/hearing dates: None at this time.

- D) Date Agency anticipates First Notice: First quarter of the year 2000

- E) Effect on small businesses, small municipalities or not for profit corporations: All Type I establishments are operating under provisions of Sanitation SOP since October 1, 1997. Currently the recordkeeping requirement is limited to operations conducted under inspection. Due to increase in numbers for operations conducted outside of official hours, but still involving meat and poultry products, becomes necessary to expand existing requirements for providing uniform sanitation procedures. Only 88 of very small businesses (Type II) will be required to adopt these rules. The Department will provide guidance and assistance during implementation process.

F) Agency contact person for information:

Dr. Kris Mazurczak
Illinois Department of Agriculture
State Fairgrounds
Springfield IL 62794-9281

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217/782-3817
FAX: 217/524-7801

- G) Related rulemakings and other pertinent information: None
- q) Part(s) (Heading and Code Citation): Illinois Horse Racing Act, 8 Ill. Adm. Code, Part 290
- 1) Rulemaking:
- A) Description: Establish rules for the new legislation passed regarding the Racing Quarter Horse Breeders Fund Program.
- B) Statutory Authority: Illinois Horse Racing Act (230 ILCS 5/1)
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: March 2000
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- James J. Reynolds
Illinois Department of Agriculture
State Fairgrounds
Springfield IL 62794-9281
217/782-4231
FAX: 217/524-6194
- G) Related rulemakings and other pertinent information: None
- r) Part(s) (Heading and Code Citation): Illinois Horse Racing Act, 8 Ill. Adm. Code 290
- 1) Rulemaking:
- A) Description: Revise the administrative code for the Thoroughbred and Standardbred breeds to update it and bring it in line with the recent changes in the Horse Racing Act.
- B) Statutory Authority: Illinois Horse Racing Act (230 ILCS 5/1)

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- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: March 2000
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- James J. Reynolds
Illinois Department of Agriculture
State Fairgrounds
Springfield IL 62794-9281
217/782-4231
FAX: 217/524-6194
- G) Related rulemakings and other pertinent information: None
- s) Part(s) (Heading and Code Citation): Illinois Fertilizer Law, 8 Ill. Adm. Code 215
- 1) Rulemaking:
- A) Description: The rule changes would adopt many of the national standards for the safe handling of anhydrous ammonia. It would allow the Department to utilize new technology and equipment developed since the last rulemaking.
- B) Statutory Authority: The Fertilizer Law (505 ILCS 80)
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: July 2000
- E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impacts are anticipated
- F) Agency contact person for information:
- Mark Ringle
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL 62794

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217/785-1082

FAX: 217/524-7801

- G) Related rulemakings and other pertinent information: None

- t) Part(s) (Heading and Code Citation): Illinois Seed Law, 8 Ill. Adm. Code 230

1) Rulemaking:

- A) Description: The rule changes will allow the Department to offer different tests that are currently available for seed products and allow the establishment of fees for these tests (i.e., #2, seed county, etc.). These rules allow for the Department to update its services offered to those groups or individuals wishing to utilize them.

- B) Statutory Authority: The Illinois Seed Law [505 ILCS 110]

- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: April 2000

- E) Effect on small businesses, small municipalities or not for profit corporations: No adverse impact is expected

- F) Agency contact person for information:

Mark Ringler
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL 62794-9281
217/785-1082
FAX: 217/524-7801

- G) Related rulemakings and other pertinent information: None

- u) Part(s) (Heading and Code Citation): The Grain Code, 8 Ill. Adm. Code 281

1) Rulemaking:

- A) Description: The Department intends to propose rules for the grain Code as a result of the amendments enacted in SB1070. SB1070 changed the method by which a person registers for the authority to print price later contracts and warehouse

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receipts.

- B) Statutory Authority: 240 ILCS 40/1-1

- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: March 2000

- E) Effect on small businesses, small municipalities or not for profit corporations: No effect anticipated

- F) Agency contact person for information:

Daniel Wilcox
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL 62794-9281
217/785-8321
FAX: 217/524-7801

- G) Related rulemakings and other pertinent information: None

- v) Part(s) (Heading and Code Citation): Illinois State Fair, and DuQuoin State Fair, Non-Fair Space Rental and the General Operation of the State Fairgrounds, 8 Ill. Adm. Code 270

1) Rulemaking:

- A) Description: Amendments to "Non-Fair Space Rental, Payment Process, Camping, Facility Availability, Insurance, Concessions, Gambling, Raffles, Prizes, Beverages, Rate Schedules, Contract and General Stabling Rules will be amended to facilitate additional rentals to maximize income throughout the non-fair season. In addition, the amendments will bring the rules in line with new procedures on the Illinois State Fairgrounds.

- B) Statutory Authority: State Fair Act [20 ILCS 210]

- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: March 2000

- E) Effect on small businesses, small municipalities or not for

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profit corporations: This rulemaking will affect those wishing to rent space/buildings on the fairgrounds.

F) Agency contact person for information:

Jeff Billman, Non-Fair Events Manager
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL 62794-9281
217/782-1698
FAX: 217/557-5729

- G) Related rulemakings and other pertinent information: None
- w) Part(s) (Heading and Code Citation): Illinois Value-Added Agriculture Enhancement Program, 8 Ill. Adm. Code 10

1) Rulemaking:

- A) Description: Rules will be adopted to implement a grant program for value-added agricultural products.

- B) Statutory Authority: Civil Administrative Code of Illinois [20 ILCS 205/40.43(e)]

- C) Schedule meeting/hearing date: No hearings have been set to date. However, hearings will be held during the 45-day first-notice period. Written comments may also be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: March 2000

- E) Effect on small businesses, small municipalities or not for profit corporations: Small agribusiness should benefit from the grant program for value-added agricultural products.

F) Agency contact person for information:

Cynthia Ervin
Illinois Department of Agriculture
P. O. Box 19281
Springfield IL 62794-9281
217/785-4507
217/785-4505 (fax)

- G) Related rulemakings and other pertinent information: None

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- a) Part (Heading and Code Citation): Rights and Responsibilities (89 Ill. Adm. Code 102)

1) Rulemaking: Implement hardship waiver related to OBRA'93

- A) Description: The Department plans to propose amendments concerning estate claims. Currently, to avoid undue hardship, the Department will waive its right to recover from a decedent's estate to the extent that a court approves an award for a surviving spouse or dependent child under the Probate Act. The changes will provide that the Department will waive recovery based upon undue hardship if pursuing recovery from the decedent's estate will cause an heir or beneficiary of the estate to become or remain eligible for a public benefit program, such as Medical Assistance, SSI, TANF or food stamps. The Health Care Financing Administration has approved an amendment to the Illinois Medicaid State plan that provides for the waiver of estate recovery based on undue hardship.

- B) Statutory Authority: Implementing Article XI and authorized by Sections 3-9 and 5-13 of the Illinois Public Aid Code [305 ILCS 5/Art. XI, Sections 3-9 and 5-13] and the Omnibus Reconciliation Act of 1993

- C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

- D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

- E) Effect on Small Businesses, Small Municipalities, and Not-For-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Office of the General Counsel

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Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: Noneb) Part (Heading and Code Citation): Children's Health Insurance Program (89 Ill. Adm. Code 125)

- 1) Rulemaking: Provide clarifications on the failure to pay premiums or repay rebate overpayments. Add changes on copayment policies affecting American Indian and Alaska Native children.

A) Description: The Department plans to propose clarifications on the application of several of the rules concerning the Children's Health Insurance Program based on experiences in the first year of operation, particularly with respect to the failure to pay premiums or repay rebate overpayments. The Department plans to revise rules to make it easier for children to switch between the various programs established under this Part and also to revise the methodology for calculating rebate amounts. The Department also plans to propose rulemaking to eliminate copayments for KidCare services provided to American Indian or Alaska Native children. These changes are necessary to comply with new federal requirements.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ICFS 5/12-13] and Sections 15 and 20 of the Children's Health Insurance Program Act [215 ILCS 106/15 and 20]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-For-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small

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municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: Nonec) Part (Heading and Code Citation): Medical Payment (89 Ill. Adm. Code 140)

- 1) Rulemaking: Amend rules to demonstrate the combining of Model Waiver I and Model Waiver II under one waiver and add new provisions to include personal assistance services in the Home and Community Based Services (HCBS) Waivers for medically fragile, technology dependent, disabled persons under age 21 years. Delete the requirement that uses the date of the physician certification as a Medicaid begin date option for long term care payment. Update and clarify cost reporting requirements for long term care facilities. Eliminate provisions for annual resident review. Amend provisions relating to ICF/MR facilities. Add provisions to better manage admissions of persons with mental illness to nursing facilities. Add provisions for an informal hearing process for denial of payments for new ICF/MR admissions. Amend provisions addressing long term care changes of ownership and a facility's responsibility for outstanding liabilities due the Department when a change of ownership occurs. Add provisions to coincide with a Public Law 106-4 regarding future Medicaid payments for residents who reside in facilities that voluntarily withdraw from the Medical Assistance Program. Clarify coverage of private automobiles as medical transportation. Add provisions to incorporate Illinois State Board of Pharmacy requirements. Continue phased implementation of the Recipient Eligibility Verification system. Add provisions on audit responses and audits. Define prohibited marketing activities and the Department's responsibility for approving marketing plans. Implement a process for the registration, credentialing, rejection, termination and reinstatement of marketing representatives. Add list to Department website of providers terminated, suspended or barred from participation in the Medical Assistance program and eliminate monthly mailing of the list.

A) Description: The Department intends to update the rules

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concerning waiver programs to reflect that the two HCBS waivers have been combined under one waiver. The Department has also determined that the rules should be amended to include personal assistance services in the HCBS waivers to provide a more consistent service level within the children's waiver and the physical disabilities waiver for persons up to age 59 years. Because the children's waiver does not currently have personal assistance services, transition to the physical disabilities waiver after the age of 21 years is difficult. Addition of personal assistance services into the children's waiver will allow a smoother transition into adulthood and increased independence for waiver participants.

The Department anticipates rulemaking to delete the date when physician certification requirements are met as an option for initiating Medicaid payments for long term care. Although the date of the physician certification will not be used to begin long term care payment, the completion of a physician certification will be required prior to authorization of Medicaid payment pursuant to federal regulations (42 CFR 456.360).

The Department plans to review all rules regarding cost reporting and allowable costs for long term care facilities. These rules will be updated and clarified as appropriate. The Department does not plan to implement significant changes in policy.

The Department anticipates rulemaking as a result of Public Law 104-315 that deleted annual resident review as a federal requirement.

As one of the final steps under Public Act 87-996 in the transfer of responsibility or administering programs for persons with developmental disabilities (including Medicaid funded intermediate care facilities (ICF/MR)), from the Department to the Department of Human Services (DHS) (formerly Department of Mental Health and Developmental Disabilities), DHS will adopt its own rules relating to ICF/MR facility services and responsibilities. Rules relating to ICF/MR facilities currently under the Department of Public Aid will be amended accordingly.

The Department plans to add provisions to better manage admissions of persons with mental illness to nursing facilities.

Under authority of federal regulations (42 CFR 442.118), the Department will put into rule an informal hearing process for denying payment for new admissions to an ICF/MR. Amendments will be made to allow a current or previous owner of a long term care facility to request from the Department a list of all outstanding

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liabilities due the Department and any known pending Department actions that may result in further liability.

The Department plans to add changes to coincide with Public Law 106-4 regarding future Medicaid payments for residents who reside in facilities that voluntarily withdrawn from the Medical Assistance Program.

Amendments to clarify the coverage of private automobiles as a means of transportation to a medical service are planned by the Department. Current rules do not provide any criteria for enrolling private automobiles as providers of service. The Department will propose that reimbursement for transportation by private automobiles should be limited to continuous services or a chronic medical condition rather than an occasional appointment.

The Department plans to propose changes to the administrative rules to incorporate the Illinois State Board of Pharmacy requirements, for the practice of pharmacy in Illinois. Incorporating these requirements is necessary because the Health Care Financing Administration holds the Department responsible for monitoring compliance for Medicaid recipients. The language for the rules of the Department of Professional Regulation reflects the federal regulations.

The Department plans to incorporate technological enhancements into the REV system to improve medical provider response to the REV system. Additionally, the definition of high volume providers will be determined. In accordance with Public Act 88-554, all medical providers defined as "high volume" must participate in the REV Program.

The Department plans to propose rulemaking to amend the current provisions on audits to allow vendors 45 days to respond to the audit findings and provide additional documentation for audit, and to provide that only one reaudit will be conducted, and if response is not received, the matter will be referred for administrative hearing to recover the amounts sought.

Certain marketing activities are prohibited by State and federal law. These activities include unsolicited door-to-door or cold call marketing and marketing at Department offices or Department of Human Services offices. The Department is further required to establish guidelines for approving marketing plans submitted by managed care entities. The guidelines must include the stated prohibitions as well as criteria for offering gifts, favors or inducements to enroll in a managed care plan. The Department will also propose a process for the registration, credentialing,

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rejection, termination and reinstatement of marketing representatives and supervisors.

The Department intends to publish, on the Inspector General's website, the monthly list of providers or entities that are terminated, suspended or barred from participation in the Medical Assistance program. This will eliminate the Department's obligation, upon request, for providing the list by mail.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not For Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

d) Part (Heading and Code Citation): Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)

1) Rulemaking: Amend Supportive Living Facility Program

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A) Description: The Department intends to amend provisions relating to the Supportive Living Program. The amendments will eliminate the RFP process, establish payment for temporary absences from the supportive living facility and simplify the calculation of the reimbursement rate for supportive living facilities. Other housekeeping amendments will also be proposed.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not For Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not for profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

e) Part (Heading and Code Citation): Reimbursement for Nursing Costs for Geriatric Facilities (89 Ill. Adm. Code 147)

1) Rulemaking:

A) Description: The Department intends to amend provisions relating to intermediate care facilities for persons with developmental

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disabilities (ICF/MR). As one of the final steps under Public Act 87-996 in the transfer of responsibility for administering programs for persons with developmental disabilities (including Medicaid funded ICFs/MR), from the Department to the Department of Human Services, DHS will adopt its own rules relating to ICF/MR services and responsibilities. Rules relating to ICF/MR facilities currently under the Department of Public Aid will be amended accordingly.

B) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-For-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not for profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:
Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

f) Part (Heading and Code Citation): Hospital Services (89 Ill. Adm. Code 148)

1) Rulemaking: Add new coverage to transplant program

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A) Description: The Department intends to add new provisions to the rules concerning outpatient bone marrow transplantation. Prior to applying for certification as an outpatient center, hospital transplant centers providing outpatient transplants will be required to meet all criteria in Section 148.82 for inpatient bone marrow transplant centers. The amendments will make clear that the limit of 50 consecutive days of post-operative care described at Section 148.82 will include both pre- and post-transplant days for outpatient procedures.

B) Statutory Authority: Sections 10-25, 10-25.5 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/10-25, 10-25.5 and 12-13]

C) Schedule of Meeting or Hearing Dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking. The Department will accept and consider any written comments that may be submitted in response to this regulatory agenda. An opportunity for public comment will also be provided following publication of Notices of Proposed Rulemaking in the *Illinois Register*.

D) Date Agency Anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on Small Businesses, Small Municipalities, and Not-For-Profit Corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency Contact Person for Information:
Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

G) Related Rulemakings and Other Pertinent Information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of February 8, 2000 through February 14, 2000 and have been scheduled for review by the Committee at its March 7, 2000 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
3/25/00	Department of Natural Resources, Commercial Fishing and Musseling in Certain Waters of the State (17 Ill Adm Code 830)	12/27/99 23 Ill Reg 14653	3/7/00
3/25/00	Department of Public Health, Automated External Defibrillator Code (77 Ill Adm Code 525)	11/19/99 23 Ill Reg 13776	3/7/00
3/29/00	Environmental Protection Agency, Water Supply Operator Certification (35 Ill Adm Code 680)	11/12/99 23 Ill Reg 13511	3/7/00

PROCLAMATIONS

2000-27

FOUR CHAPLAINS SUNDAY

WHEREAS, each year a memorial program is sponsored by the Combined Veterans Association of Illinois. This year it is hosted by the Italian American War Veterans; and
 WHEREAS, in a final act of love and dedication, four U.S. Army Chaplains representing the Methodist, Roman Catholic, Jewish, and Dutch Reformed faiths, gave their own life jackets, the only ones that remained, to four soldiers. The four chaplains then linked arms and prayed as they sank with the torpedoed U.S.S. Dorchester in the North Atlantic; and

WHEREAS, February 6, 2000, marks the 57th anniversary of "Four Chaplains Sunday," one of the most inspiring acts of heroism in World War II;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 6, 2000, as *FOUR CHAPLAINS SUNDAY* in Illinois, in an effort to perpetrate the memory of these men who so convincingly demonstrated their boundless love for others.

Issued by the Governor January 20, 2000.

Filed by the Secretary of State February 7, 2000.

2000-28

LICENSED PRACTICAL NURSE WEEK

WHEREAS, the maintenance of good health is of primary concern to everyone; and

WHEREAS, the role of the licensed practical nurse, in caring for people's health needs, has advanced in responsibility and complexity; and

WHEREAS, the Licensed Practical Nurse Association of Illinois encourages the continuance of education to ensure competency among its members; and

WHEREAS, the Licensed Practical Nurse Association of Illinois is the voice for LPNs in the health care field and maintains the welfare of the LPN; and

WHEREAS, the Licensed Practical Nurse Association of Illinois is a member of National Federation of Licensed Practical Nurses; and

WHEREAS, the Licensed Practical Nurse Association of Illinois is holding its annual convention March 26-30, 2000, in Harvey, Illinois, at the Ramada Inn. This year's theme is "LPN the Light of the Future";

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 26-31, 2000, as *LICENSED PRACTICAL NURSE WEEK* in Illinois.

Issued by the Governor January 20, 2000.

Filed by the Secretary of State February 7, 2000.

2000-29

ASIAN AMERICAN COALITION OF CHICAGO DAY

WHEREAS, the Asian American Coalition of Chicago (AACC) was founded in May 1982 with the goal to organize and promote equal opportunity in government, education, and economic development. The AACC enables Asian Americans to enrich their culture while strengthening America; and

WHEREAS, Asians have immigrated legally to America for many years, starting in large numbers when Chinese workers were brought here in the 1800s.

Hawaiians, Koreans, Japanese, Filipinos, Cambodians, Indians, Vietnamese, and others have greatly enriched the American experience over the years; and
 WHEREAS, the theme for this year's celebration is "Asian Americans: Reach Out & Be Counted". This year's theme places special emphasis on the Year 2000 Census to increase awareness and participation in the census among the Asian American community; and

WHEREAS, the celebration will honor the Grand Asian American Award, Community Service Asian Award, and Pan Asian American Award recipients. The celebration will include an exciting entertainment program highlighting the rich Asian culture of several countries; and
 WHEREAS, on February 19, the Asian American Coalition of Chicago is pleased to present the 17th Annual Celebration hosted by the Pakistani American community at Navy Pier, Chicago;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 19, 2000, as *ASIAN AMERICAN COALITION OF CHICAGO DAY* in Illinois.

Issued by the Governor January 25, 2000.

Filed by the Secretary of State February 7, 2000.

2000-30

LIBERTY DAY

WHEREAS, we, as Americans, enjoy our liberties through the documents that our founding fathers created, those being known as the *DECLARATION OF INDEPENDENCE* and the *UNITED STATES CONSTITUTION* with its *BILL OF RIGHTS*; and
 WHEREAS, James Madison had considerable influence in the creating of the *UNITED STATES CONSTITUTION*, in that he wrote the Virginia Plan which served as the model and basis for discussion for the forming of that new constitution which has so preserved our liberties in this country; and

WHEREAS, James Madison wrote many of the articles (which became known as the 'Federalist Papers') that persuaded the inhabitants of this new country to endorse and accept the *UNITED STATES CONSTITUTION*; and
 WHEREAS, James Madison served in the first House of Representatives under the new government (from 1789 to 1797), during which time he introduced the *BILL OF RIGHTS* into Congress, for the full protection and preservation of our liberties; and

WHEREAS, James Madison was President of the United States from 1809 until 1817; and
 WHEREAS, March 16, 2000, is the 249th anniversary of the birth of James Madison;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 16, 2000, as *LIBERTY DAY* in Illinois.

Issued by the Governor January 26, 2000.

Filed by the Secretary of State February 7, 2000.

2000-31

AMERICAN HEARTSAVER MONTH

WHEREAS, nearly 700 Americans die each day of sudden cardiac arrest and 250,000 die each year; and
 WHEREAS, 95 percent of those who suffer cardiac arrest die before they reach the hospital; and
 WHEREAS, progress in improving the survival rate for sudden cardiac

arrest is lagging behind the survival rate for nearly all other types of cardiovascular disease; and

WHEREAS, the American Heart Association (AHA) believes the survival rate for sudden cardiac arrest can be improved to 20 percent or higher and as many as 50,000 lives can be saved each year if the chain of survival is strengthened; and

WHEREAS, the four links in the cardiac arrest chain of survival are early access to the Emergency Medical Services system, early cardiopulmonary resuscitation (CPR), early defibrillation and early advanced medical care; and
 WHEREAS, the AHA emphasizes that every link in the chain of survival is critically important and can increase the prospects for survival; and

WHEREAS, the AHA will hold American HeartSaver Day celebrations events during the month of February 2000 and during every February thereafter to create public awareness of the need to strengthen every link in the chain of survival and honor those individuals who have worked to strengthen the chain or have a life using cardiopulmonary resuscitation (CPR) or an automated external defibrillator (AED); and

WHEREAS, the AHA is continually working to remove legal barriers to citizens operating automated external defibrillators (AEDs);

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 2000 as *AMERICAN HEARTSAVER MONTH* in Illinois.

Issued by the Governor January 27, 2000.

Filed by the Secretary of State February 7, 2000.

2000-32

CAREER AND TECHNICAL EDUCATION WEEK

WHEREAS, the Illinois Association for Career and Technical Education has designated the week of February 13-19, 2000, as Career and Technical Education Week; and

WHEREAS, the theme for Career and Technical Education Week is "2000: A Career Odyssey"; and

WHEREAS, career and technical education supplies Illinois with a strong, well-trained work force that enhances productivity in business and industry and contributes to the state's leadership on the national and international marketplace; and

WHEREAS, career and technical education stimulates the growth and vitality of businesses and industries by preparing workers for the occupations forecast to experience the largest and fastest growth in the next decade; and

WHEREAS, career and technical education serves individual citizens by enabling them to find satisfying careers suited to their own skills and interests and by providing technical skills that allow them to excel in their chosen careers. The Illinois Association for Career and Technical Education also teaches leadership skills that serve citizens on the job, at home and in the community; and

WHEREAS, a strong career and technical education program planned and carried out by trained career and technical educators is vital to the future economic development of our State and well-being of its citizens;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 13-19, 2000, as *CAREER AND TECHNICAL EDUCATION WEEK* in Illinois.

Issued by the Governor January 28, 2000.

Filed by the Secretary of State February 7, 2000.

2000-33

FUTURE BUSINESS LEADERS OF AMERICA-PHI BETA LAMBDA WEEK

WHEREAS, Americans depend upon the business leaders of our country to promote future growth and progress of the United States economy and to assure continuing prosperity for the entire nation; and

WHEREAS, the Future Business Leaders of America organization is actively training young people to assume positions of leadership and responsibility in business and industry, as well as teaching young people the value and benefits of being actively involved in community service projects; and

WHEREAS, there are approximately 3,500 Future Business Leaders of America-Phi Beta Lambda members in Illinois from 88 high schools and 15 colleges, and approximately 250,000 members nationwide; and

WHEREAS, the Future Business Leaders of America organization continues to demonstrate their effectiveness in producing young people who are competent leaders committed not only to sustaining the American free enterprise system but also to expanding and improving upon it;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 13-19, 2000, as **FUTURE BUSINESS LEADERS OF AMERICA-PHI BETA LAMBDA WEEK** in Illinois.

Issued by the Governor January 28, 2000.

Filed by the Secretary of State February 7, 2000.

2000-34

NUTRITION MONTH

WHEREAS, the Illinois Department of Human Services, along with nutrition professionals throughout Illinois and the United States, is promoting good nutrition; and

WHEREAS, there is a need to encourage our citizens to practice sound eating habits throughout the year in order to achieve optimum health; and

WHEREAS, more than 30 percent of Illinoisans are at risk because of obesity, nearly 23 percent consume a high-fat diet, and only 21 percent eat the recommended five or more servings of fruit and vegetables a day; and

WHEREAS, in keeping with the theme of the national observance, "Food and Fitness: Health for a Lifetime", all Illinoisans should become aware of the importance of proper nutrition;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 2000 as **NUTRITION MONTH** in Illinois.

Issued by the Governor January 28, 2000.

Filed by the Secretary of State February 7, 2000.

2000-35

TONY SMALL DAY

WHEREAS, on March 11, 1985, Tony Small joined the staff of the Bureau of the Budget as a budget analyst; and

WHEREAS, Tony became chief of what is now the Environment and Public Safety Division of the Bureau on September 1, 1987; and

WHEREAS, over the years Tony has built a reputation as one of the bureau's most knowledgeable staff members; and

WHEREAS, three Illinois governors and four directors of the Bureau of the

Budget have relied on Tony to play a key role in the development and formation of the State budget; and

WHEREAS, Illinois FIRST is only the most recent of the many major budget initiatives by Illinois governors to benefit from Tony's experience and involvement; and

WHEREAS, Tony, Larry Smith and Eddy Fisher were able in a half hour to develop the major details of the consolidation of the Department of Natural Resources; and

WHEREAS, on more than one occasion, Tony has responded to key deadlines by injuring his leg, knee or Achilles tendon; and

WHEREAS, more than six dozen analysts have served under Tony and many have taken their experience to other positions where they benefit the people of Illinois; and

WHEREAS, Tony remains dedicated to the public service in Illinois and will continue his career in State government at the Illinois Department of Correction;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 31, 2000, as **TONY SMALL DAY** in Illinois in recognition of his distinguished service to the Bureau of the Budget, the Office of the Governor and the people of Illinois.

Issued by the Governor January 28, 2000.

Filed by the Secretary of State February 7, 2000.

2000-36

HOWARD A. PETERS III DAY

WHEREAS, Howard A. Peters III was appointed on January 23, 1997, as the first Secretary of the Illinois Department of Human Services; and

WHEREAS, Secretary Peters merged all or parts of six State human service agencies including 20,000 employees, and implemented new goals, new programs and a \$4.5 billion dollar budget to provide better programs to citizens; and

WHEREAS, through his tireless efforts in the area of welfare reform, Howard A. Peters helped 120,000 Illinois families work their way off of welfare and into paying jobs by assisting with job training, child care services and transportation; and

WHEREAS, developmentally disabled and mentally ill clients have been provided with quality care and beneficial programs under his leadership; and

WHEREAS, Secretary Peters worked to ensure people and families fighting alcohol and substance abuse problems were able to receive treatment and recover from their addictions; and

WHEREAS, under his direction, clients challenged by physical disabilities were offered assistance through programs which allowed them to gain more independence; and

WHEREAS, families were given new opportunities to raise healthy children while countless youth programs kept their children in school, off of drugs and alcohol, and on the right track to success; and

WHEREAS, Mr. Peters previously served as Deputy Chief of Staff to Governor Jim Edgar and was also the first African American Director of the Illinois

Department of Corrections after more than 20 years of experience with the IDOC; and

WHEREAS, his personal background and experiences gave him a unique perspective of those in need of State services; and

WHEREAS, Howard Peters' involvement in the community along with the success he has achieved both personally and professionally make him an excellent role model and leader;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 8, 2000, as **HOWARD A. PETERS III DAY** in honor and recognition of his many contributions to the citizens of this State.

Issued by the Governor February 1, 2000.

Filed by the Secretary of State February 7, 2000.

2000-37

PARENTS INSERVICE CONFERENCE DAY

WHEREAS, the Region V 24th Annual Inservice Conference of the National Coalition of Title I Chapter I Parents will be held in Chicago from March 29 through April 2, 2000, at the Congress Plaza Hotel and Convention Center; and

WHEREAS, the National Coalition was organized in 1973 by a group of 50 parents concerned about and committed to achieving total community participation in the development of educational programs and agendas for disadvantaged children; and

WHEREAS, the conference theme is "Making Paths and Blazing Trails Through Family-School Partnerships"; and

WHEREAS, the conference has been designed to join parents, teachers, federal and local program administrators, educators, and the community in a combined effort to seek new ways to strengthen instructional programs for children facing educational disadvantages; and

WHEREAS, we commend the Illinois delegates from the City of Chicago and the Chicago Public Schools family and community for their efforts;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 30, 2000, as **PARENTS INSERVICE CONFERENCE DAY** in Illinois.

Issued by the Governor February 1, 2000.

Filed by the Secretary of State February 7, 2000.

2000-38

SKILLSUSA-VICA WEEK

WHEREAS, the proper education of today's youth is a concern of all Americans; and

WHEREAS, SkillsUSA-VICA is dedicated to the advancement of proper education, training and development of America's youth; and

WHEREAS, SkillsUSA-VICA in Illinois includes more than 115 active student secondary and postsecondary chapters throughout the State with more than 250 professional members from education, business and industry; and

WHEREAS, for more than 35 years, the Illinois Association of SkillsUSA-VICA has been a pioneer in advancing the awareness of the importance of career and technical education and has helped forge alliances in communities throughout the State with business and industry to help our high schools and community colleges in skills training and employability training;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 13-19, 2000, as **SKILLSUSA-VICA WEEK** in Illinois.

Issued by the Governor February 1, 2000.

Filed by the Secretary of State February 7, 2000.

2000-39

SMITH MUSEUM OF STAINED GLASS WINDOWS DAY

WHEREAS, the Smith Museum of Stained Glass Windows, the first museum in the United States dedicated solely to stained glass windows, features more than 150 stained glass windows dating from the 1870's to the present; and

WHEREAS, E.B. Smith began eyeing stained glass as a child while roaming the streets of Chicago and the cathedral cities in France as his parents traveled; and

WHEREAS, when he was fresh out of business school, E.B. Smith Jr. thought his obsession with collecting stained-glass windows was just a quirky hobby; and

WHEREAS, he started by plunking down almost \$1,000 for a couple of exquisite windows designed by renowned architect Louis Sullivan that he had spotted in a Lincoln Avenue used-furniture store; and

WHEREAS, now this collection, one of the most diverse in existence, includes windows from well-known artists such as Frank Lloyd Wright, Louis Sullivan, Louis Comfort Tiffany and John LaFarge; and

WHEREAS, the goal of the Smith Museum of Stained Glass Windows is to bring the museum and its art to the public and ideally create a national model for other public exhibits;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 11, 2000, as **SMITH MUSEUM OF STAINED GLASS WINDOWS DAY** in Illinois.

Issued by the Governor February 1, 2000.

Filed by the Secretary of State February 7, 2000.

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